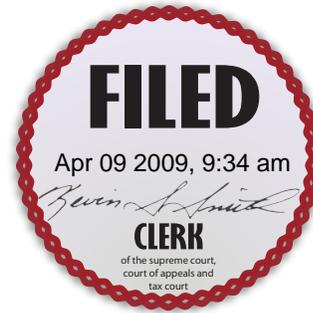


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

C. M. C.,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 65A01-0812-JV-561

APPEAL FROM THE POSEY SUPERIOR COURT
The Honorable James Redwine, Judge
Cause No. 65C01-0606-JD-83, 65C01-0710-JD-221, 65C01-0807-JD-158

April 9, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

C.M.C. appeals his commitment to Department of Correction (“DOC”) following his admission that he committed a delinquent act. We affirm.

Issue

The sole issue before us is whether the trial court abused its discretion in committing C.M.C. to the custody of the DOC.

Facts

C.M.C. was born in January 1991. On October 16, 2006, C.M.C. admitted to being delinquent for having committed what would be two counts of Class C felony burglary and two counts of Class D felony theft if committed by an adult. Following his delinquency adjudication the trial court ordered C.M.C. to spend four weekends in secure detention at a local youth facility, six months on house arrest with electronic monitoring, and twenty-four months on probation after completion of house arrest.

On October 4, 2007, about one month after C.M.C. began his probation, the State alleged that he committed the acts of Class A misdemeanor possession of marijuana and Class D felony possession of a controlled substance. C.M.C. admitted to the allegation. On March 17, 2008, the trial court ordered C.M.C. to spend ninety days in an intensive intervention program at Southwest Indiana Regional Youth Village.

On July 23, 2008, about one month after C.M.C. left the intensive intervention program, the State alleged that he had committed four acts of Class D felony receiving stolen property. The apparently undisputed facts regarding these offenses are that C.M.C.

knowingly took stolen property from a friend and brought it to his house. Soon afterwards, however, C.M.C. voluntarily told his probation officer that he had taken the stolen property. C.M.C. was not under suspicion for receiving stolen property at that time. Following C.M.C.'s admission to having committed receiving stolen property, the trial court committed him to the custody of the DOC. C.M.C. now appeals.

Analysis

The choice of the specific disposition of a juvenile adjudicated a delinquent child is a matter within the sound discretion of the juvenile court and will only be reversed if there has been an abuse of discretion. J.S. v. State, 881 N.E.2d 26, 28 (Ind. Ct. App. 2008). The juvenile court's discretion is guided by consideration of the welfare of the child, the safety of the community, and the policy of favoring the least harsh disposition. Id. An abuse of discretion occurs if the juvenile court's disposition is clearly erroneous and against the logic and effect of the facts and circumstances before the court or the reasonable, probable, and actual inferences that can be drawn therefrom. Id. Juvenile courts are accorded wide latitude and great flexibility in their dealings. Id.

Indiana Code Section 31-37-18-6 provides:

If consistent with the safety of the community and the best interest of the child, the juvenile court shall enter a dispositional decree that:

- (1) is:
 - (A) in the least restrictive (most family like) and most appropriate setting available; and

- (B) close to the parents' home, consistent with the best interest and special needs of the child;
- (2) least interferes with family autonomy;
- (3) is least disruptive of family life;
- (4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and
- (5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

Although this statute requires the juvenile court to select the least restrictive placement in most situations, it also reveals that a more restrictive placement might be appropriate under certain circumstances. J.S., 881 N.E.2d at 28-29. In certain situations, the best interest of the child is better served by a more restrictive placement. Id. at 29. In fact, "it is well settled that 'there are times when commitment to a suitable public institution is in the best interest of the juvenile and society.'" Id. (quoting D.S. v. State, 829 N.E.2d 1081, 1085 (Ind. Ct. App. 2005)). A juvenile's failure to improve his or her behavior after more lenient attempts at rehabilitation may support a decision to commit the juvenile to the custody of the DOC. See K.A. v. State, 775 N.E.2d 382, 387 (Ind. Ct. App. 2002), trans. denied.

C.M.C. urges us to reverse the trial court's decision to commit him to the custody of the DOC largely because he freely admitted to his probation officer that he had received stolen property, even before he was a suspect in any such crime. Such action by C.M.C. was commendable. Still, we cannot ignore the fact that this was C.M.C.'s third

encounter with the juvenile justice system for having committed criminal acts that would constitute felonies if committed by an adult. On the prior two occasions the trial court entered less harsh, yet undeniably strict, dispositions. Nevertheless, shortly after completing house arrest and later shortly after completing an intensive intervention program, C.M.C. committed additional delinquent acts.

Furthermore, C.M.C.'s probation officer recommended his placement in the custody of the DOC. Aside from repeatedly committing delinquent acts, the probation officer indicated that C.M.C. was not a model probationer. For instance, after C.M.C. was released from the intensive intervention program, he and his mother were supposed to meet with a counselor for aftercare services; the counselor was unable to schedule any appointments with C.M.C. and his mother despite attempts to do so. Additionally, C.M.C. had failed to keep a recent appointment with his probation officer, and C.M.C. also appears to have violated a curfew that was established for him, even after the probation officer told C.M.C. she was going to call his house to see if he was there.

The trial court's treatment of C.M.C. on two prior occasions failed to dissuade him from committing yet another delinquent act. Although C.M.C. readily admitted to having received stolen property, if he had been truly and fully rehabilitated he never would have accepted the stolen property in the first place. We cannot say the trial court's decision to commit C.M.C. to the custody of the DOC was clearly against the logic and effect of the circumstances before it.

Conclusion

The trial court did not abuse its discretion in committing C.M.C. to the custody of the DOC. We affirm.

Affirmed.

BAKER, J., and MAY, J., concur.