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IN THE
COURT OF APPEALS OF INDIANA

J.A.H.,	)	
	)	
Appellant- Respondent,	)	
	)	
vs.	)	No. 54A01-0911-JV-525
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Petitioner.	)	

APPEAL FROM THE MONTGOMERY CIRCUIT COURT
The Honorable Peggy Q. Lohorn, Special Judge
Cause No. 54C01-0811-JD-266
54C01-0904-JD-118

APRIL 14, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARTEAU, Senior Judge

STATEMENT OF THE CASE

Respondent-Appellant J.A.H. appeals the juvenile court's modification of his probationary term.

We affirm.

ISSUE

J.A.H. presents one issue for our review, which we restate as: whether the juvenile court abused its discretion when it modified J.A.H.'s term of probation.

FACTS AND PROCEDURAL HISTORY

In November 2008, a delinquency petition was filed under cause number 54C01-0811-JD-266 ("Cause 266") alleging that J.A.H. committed three counts of criminal mischief, all Class A misdemeanors if committed by an adult. The following month J.A.H. admitted to one count of criminal mischief, and the court placed him on probation for nine months with certain conditions, including that J.A.H. was to "engage in a pro-social recreational activity" on a weekly basis. Appellant's Appendix at 10.

In February 2009, a petition to revoke or modify J.A.H.'s probation was filed, and a fact-finding hearing on the petition was held on April 7, 2009.[1] The court determined that J.A.H. had violated his probation and ordered him to continue on probation with the

[1] Although the CCS contained in the Appellant's Appendix records the date of the hearing as April 8, 2009, in another entry the CCS shows that the hearing was set for April 7, 2009 and the transcript of the hearing, as provided in the Exhibits volume, is dated April 7, 2009. *See* Appellant's App. at 11 and Exhibits Volume at 1.

modification of certain terms. At the April 7, 2009 fact-finding hearing, in an apparent attempt to satisfy his probationary requirement of a pro-social recreational activity, J.A.H. testified that he was on the track team at his school and that he was participating in the team's conditioning program. Exhibits Volume at 49.

Subsequently, on April 16 or 17, 2009 under cause number 54C01-0904-JD-118 ("Cause 118"), the State filed a petition alleging that J.A.H. was a delinquent child for committing perjury that, had he been an adult, would have been a Class D felony. Based upon the filing of this petition in Cause 118, the State filed a petition to execute suspended sentence and a petition to revoke or modify probation in Cause 266.

On September 8, 2009, a fact-finding hearing was held in Cause 266. At the hearing, the track coach of the high school attended by J.A.H. testified that J.A.H. had not tried out for the track team and was not a member of the track team. Tr. at 5. Based upon the court's true finding to the act of delinquency alleged in Cause 118, it found that J.A.H. had violated his probation in Cause 266. The court then entered an order modifying its previous dispositional order by requiring J.A.H. to remain on probation for one year in Cause 266, to be served consecutively to the term imposed in Cause 118. J.A.H. now appeals the modification of his term of probation in Cause 266.

DISCUSSION AND DECISION

J.A.H. contends that the juvenile court abused its discretion when it modified his term of probation from nine months to one year. The choice of the specific disposition of a juvenile adjudicated a delinquent child is a matter within the discretion of the juvenile

court. *D.B. v. State*, 842 N.E.2d 399, 404 (Ind. Ct. App. 2006). We will reverse a juvenile disposition only for an abuse of discretion, which occurs when the trial court's action is clearly erroneous and against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom. *C.C. v. State*, 831 N.E.2d 215, 217 (Ind. Ct. App. 2005). The juvenile court's discretion is subject to the statutory considerations of the welfare of the child, the safety of the community, and the policy of favoring the least harsh disposition. *D.B.*, 842 N.E.2d at 404.

J.A.H. claims the juvenile court abused its discretion by extending his probation beyond the term set in the original dispositional decree because it does not have the authority to do so. Ind. Code § 31-37-22-1 delineates the methods by which a juvenile court may modify a dispositional decree:

> While the juvenile court retains jurisdiction under IC 31-30-2, the juvenile court may modify any dispositional decree:
>
> (1) upon the juvenile court's own motion;
>
> (2) upon the motion of:
>
> (A) the child;
> (B) the child's parent, guardian, custodian, or guardian ad litem;
> (C) the probation officer; or
> (D) the prosecuting attorney; or
>
> (3) upon the motion of any person providing services to the child or to the child's parent, guardian, or custodian under a decree of the court.

Ind. Code § 31-37-22-1 clearly allows the juvenile court to modify *any* dispositional decree. Moreover, J.A.H. does not allege that the juvenile court no longer had jurisdiction over his case, and we find nothing in the materials on appeal indicating the juvenile court did not have jurisdiction over this cause at the time it modified its dispositional decree. Thus, J.A.H. has failed to show that the juvenile court acted outside its authority and/or that it abused its discretion as he claims it did when it extended his probation.

CONCLUSION

Based upon the foregoing discussion and authorities, we conclude that the juvenile court did not abuse its discretion in modifying J.A.H.'s term of probation following a true finding of a probation violation.

Affirmed.

DARDEN, J., and FRIEDLANDER, J., concur.