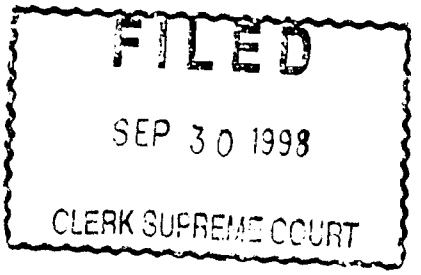
IN THE COURT OF APPEALS OF IOWA

No. 8-507 / 98-0177



IN THE INTEREST OF J.F., Minor Child,

J.F., Minor Child,
Appellant.

Appeal from the Iowa District Court for Black Hawk County, Joseph Moothart, District Associate Judge.

Jennifer F. appeals from a modification of a prior dispositional order entered pursuant to her adjudication of guilt for the delinquent acts of third-degree burglary and operating a motor vehicle without the owner's consent. **AFFIRMED.**

Kellyann M. Lekar of Roberts & Stevens, P.L.C., Waterloo, for appellant.

Thomas J. Miller, Attorney General, and Kathrine S. Miller-Todd, Assistant Attorney General, for appellee.

Considered by Sackett, P.J., and Huitink and Mahan, JJ.

MAHAN, J.

Jennifer F. appeals from a modified dispositional order committing her to the Girls Training School at Toledo until her eighteenth birthday. Jennifer contends the district court did not enter the least restrictive dispositional order appropriate under the circumstances. Jennifer also maintains the district court failed to properly consider and provide reasons for rejection of less restrictive options. We affirm.

Jennifer is a sixteen-year-old girl with a long history of unstable living arrangements. Jennifer was born April 28, 1982. Her parents, both of whom have police records and histories of substance abuse problems, reportedly divorced when Jennifer was three years old. Jennifer lived with her mother following the divorce. Her mother remarried when Jennifer was seven years old. Jennifer moved numerous times between her mother's and grandparent's homes between ages seven and nine. She then lived with her father for six months before returning to her mother's home.

Jennifer was first referred to juvenile court services for a shoplifting offense in April 1992. She entered into an informal adjustment agreement for supervision by a juvenile court officer. From 1992 to 1994, Jennifer reportedly ran away five or six times. In July 1994, Jennifer was charged with burglary in the third degree. She entered into another informal adjustment agreement and moved in with a relative.

A child in need of assistance petition was filed on behalf of Jennifer in December 1994. She ran away three times that month and was placed in a youth shelter and a detention center. Jennifer spent time over the first four months of 1995

on in-home detention at a relative's home. She was adjudicated to have committed the delinquent act of third-degree burglary in February 1995. In May 1995, Jennifer was adjudicated to have committed the delinquent act of operating a motor vehicle without the owner's consent.

Jennifer was placed at the Wittenmeyer-Bridgehouse Program from June to September 1995. She ran away five times. After the Wittenmeyer Youth Center discharged Jennifer, she was admitted to the Forest Ridge Youth Services Program. Jennifer spent approximately eleven months at Forest Ridge before being discharged to the Four Oaks day/evening treatment program and placed with relatives.

Jennifer continued to run away, refused to attend the Four Oaks program, and refused to comply with her relatives' rules. Consequently, Jennifer was placed in foster group care at Forest Ridge in January 1997. Jennifer appealed. We affirmed this placement as the least restrictive disposition appropriate under the circumstances, noting "past interventions by the court and the family have not served to alter Jennifer's 'problematic behavioral patterns' effectively." *In re J.F.*, No. 97-179 (Iowa App. Oct. 29, 1997).

Jennifer completed the Forest Ridge program in August 1997 and was placed in foster family care. By December, Jennifer had been removed from two foster homes due to conflicts between Jennifer and the families and her failure to follow family rules. During her time at the second foster home in Waterloo, Jennifer was frequently absent from school and admitted she had been using marijuana and alcohol.

Jennifer was placed at the Iowa Juvenile Home for evaluation. Jennifer reportedly did not seem to see anything wrong with her history of behavioral problems which include runaway, truancy, lying, stealing, burglary, fighting, threatening others, and substance abuse. The evaluating psychiatrist, psychologist, youth counselor, and supervisor all agreed Jennifer needs a structured setting to control her ongoing behavioral problems and to maintain the progress she achieved in controlling her behavior. Foster family care appears to be unable to provide sufficient structure for Jennifer, as evidenced by the failure of her two most recent foster family placements.

The juvenile court officer recommended two placement options: (1) committal to the Girls Training School at Toledo, or (2) committal to the Girls Training School at Toledo with mittimus withheld so Jennifer could make one more attempt at foster family care. The district court chose the first option after reviewing the reports and considering the underlying offenses, Jennifer's age, and her prior history under previous dispositional orders.

I. STANDARD OF REVIEW. Juvenile matters are reviewed de novo. *In re N.W.E.*, 564 N.W.2d 451, 453 (Iowa App. 1997). We give weight to the fact findings of the district court but we are not bound by them. Iowa R. App. P. 14(f)(7); *id.*

II. LEAST RESTRICTIVE DISPOSITION. The district court may order a more restrictive placement based upon clear and convincing evidence that currently existing circumstances would support such a modification. Iowa Code § 232.54(5)

(1997). A child may be placed in the state training school only if the statutory conditions are met. Iowa Code § 232.52(2)(e). Apparently it is not disputed that Jennifer meets these statutory criteria; the issue is whether committing Jennifer to the Girls Training School at Toledo is the least restrictive disposition appropriate under the circumstances. We agree that it is.

Dispositional orders are governed by Iowa Code section 232.52, which requires in part:

> [T]he court shall enter the least restrictive dispositional order appropriate in view of the seriousness of the delinquent act, the child's culpability as indicated by the circumstances of the particular case, the age of the child and the child's prior record.

Jennifer was adjudicated to have committed the delinquent acts of burglary in the third degree and operating a motor vehicle without the owner's consent. These offenses would have been a class D felony and an aggravated misdemeanor, respectively, if she had been an adult. Iowa Code §§ 713.6A, 714.7. Jennifer was fifteen years old and had already been involved in the juvenile court system for five years when this dispositional order was entered.

Jennifer has failed to maintain control over her behavioral problems in less restrictive placements with relatives, in foster family care, and in foster group care. In the six months prior to the entry of this dispositional order, Jennifer had to be removed from two foster family homes; she was frequently absent from school, refused to follow rules, and admitted to using alcohol and marijuana. The psychiatrist, psychologist, youth counselor, and supervisor who evaluated Jennifer in

December 1997 all agreed Jennifer needs more structure than foster family care can provide. Under these circumstances, commitment to the Girls Training School at Toledo is the least restrictive disposition appropriate for Jennifer.

III. VALIDITY OF THE DISPOSITIONAL ORDER. Jennifer argues the dispositional order must be reversed because the judge failed to state in the order he considered less restrictive options and his reasons for rejecting them. Jennifer correctly states courts are not required to implement every possible less restrictive dispositional alternative before choosing a more restrictive one, but they must consider the less restrictive alternatives and have reasons for rejecting them. *In re W.E.G.*, 342 N.W.2d 900, 901 (Iowa App. 1983). However, judges need not state the less restrictive alternatives they considered and their reasons for rejecting them in the order itself as long as the record shows they did consider, and had reasons for rejecting, less restrictive options. *Id.*; *In re B.L.*, 491 N.W.2d 789, 793 (Iowa App. 1992); *In re M.D.S.*, 488 N.W.2d 715, 718 (Iowa App. 1992). The record in this case clearly shows the trial judge did consider, and had reasons for rejecting, less restrictive options.

For these reasons, we affirm the dispositional order entered by the district court.

AFFIRMED.