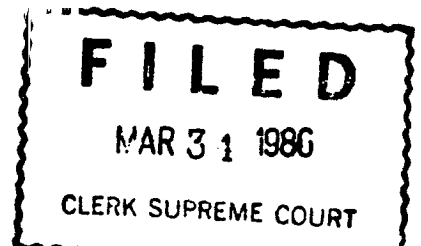


IN THE COURT OF APPEALS OF IOWA



IN THE INTEREST OF C.A.T.,)
A Child,)
Appellant.)

Filed March 31, 1986

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5-663
85-669

Appeal from the Iowa Juvenile Court for Polk County (J# 19444-40) Vincent Hanrahan, Judge.

The child in interest appeals a ruling by the juvenile court adjudicating him to be a delinquent child and its order requiring him to remain at the Iowa Training School for Boys until his eighteenth birthday. **AFFIRMED.**

David C. Backstrom, Office of Citizen Advocate, Des Moines, Iowa, for appellant child.

Thomas J. Miller, Attorney General of Iowa, and Charles K. Phillips, Assistant Attorney General, for the appellee State.

Considered by Donielson, P.J., Snell, and Schlegel, JJ.

SCHLEGEL, J.

The child in interest appeals a ruling by the juvenile court adjudicating him to be a delinquent child and its order requiring him to remain at the Iowa Training School for Boys until his eighteenth birthday. We affirm.

At a very early age, C.A.T. was adjudicated to be a neglected child due to the lack of proper parental care. He grew up with his grandmother and was still under her legal custody when he was found to be in need of assistance due to emotional problems on July 6, 1984. After a hearing on September 21, 1984, C.A.T. was placed in the temporary legal custody of the Polk County Department of Human Services for the investigation of an out-of-home placement. On November 14, 1984, C.A.T. was charged with two counts of second degree sexual abuse and one count of contributing to the delinquency of a minor. A detention hearing was held on November 16, 1984, and pursuant to the trial court's order, C.A.T. underwent a mental health evaluation on an inpatient basis for approximately three weeks. On March 15, 1985, C.A.T. was adjudicated to have committed sexual abuse in the second degree.

On March 29, 1985, the juvenile court held a hearing to determine the appropriate disposition of C.A.T., who by this time was sixteen years old. The juvenile court considered a report prepared by appellant's probation officer that recommended placing the child at the Boys Training School at Eldora, Iowa. In fact, all of the parties agreed that sending the child to Eldora was a proper decision. In addition to the report, a psychiatric evaluation done at Broadlawns Medical Center was reviewed. This evaluation indicated that C.A.T. was in need of a structured setting to help him control his aggression. Finally, the juvenile court heard testimony from C.A.T., his grandmother, his aunt, and a social worker from the Iowa Department of Human Services. All of the witnesses expressed a similar opinion that C.A.T. would benefit the most from

some sort of therapeutic program at Eldora rather than having him "red tagged" or locked up until his eighteenth birthday.

After receiving all the evidence, the juvenile court ordered appellant to remain at Eldora until reaching the age of 18. Appellant argues, on appeal, that there was no evidence to support this decision, and therefore the juvenile court abused its discretion.

This court's scope of review is de novo only to the extent of examining all the evidence to determine whether the court abused its discretion. In the Interest of Rousselow, 341 N.W.2d 765, 766 (Iowa 1983); In the Interest of Matzen, 305 N.W.2d 479, 482 (Iowa 1981).

In In the Interest of W.E.G., 342 N.W.2d 900, 901 (Iowa App. 1983), we considered the appropriate statutory criteria the juvenile court must consider in matters such as the one before us.

In a disposition of a child found to have committed a delinquent act, the court is to enter the least restrictive dispositional order that is appropriate under the circumstances. See Iowa Code § 232.52(1). A court may subsequently modify a dispositional order by imposing or substituting more restrictive conditions. See Iowa Code § 232.54(5). However, we believe that even though a juvenile judge is not required to implement each less restrictive dispositional alternative before reaching the most restrictive one, the selection of any one disposition over another requires rejection of others, more or less onerous, and reasons for that rejection.

The record before us demonstrates that the juvenile court complied with Iowa Code section 232.52(1) (1985), by considering the appellant's age, the seriousness of the offense, and his history of violence. It also is apparent that the juvenile court then considered less restrictive dispositions and rejected them.

Appellant was sixteen years old when his dispositional hearing was held. At this age, the appellant could have been tried as an adult and, if found guilty, could have received a 25-year sentence. But the juvenile court instead chose to impose a two-year sentence by allowing this matter to proceed as it did.

C.A.T. was found to have committed a sexual act upon a girl under the age of twelve. This is a class B felony and a very serious offense. Considering the sentence normally imposed on an adult, the juvenile court's decision to send C.A.T. to Eldora demonstrates that the lesser alternative was chosen in this case.

The record also shows that appellant is a very hostile and aggressive young male in need of a highly-structured environment. The clinical psychologist from Broadlawns Hospital noted a high likelihood that his violence would increase if C.A.T. were allowed to remain in an unstructured environment. In addition to this evidence, appellant's aunt and grandmother testified that C.A.T. demonstrated violent and hostile behavior toward them.

We are convinced the juvenile court properly considered all feasible less restrictive dispositions. Placement at the Toledo Juvenile Home was expressly rejected because of appellant's violent behavior. The only less restrictive option left to the juvenile court was to not "red-tag" appellant and therefore not require him to remain in Eldora until the age of eighteen.

Considering all of the statutory factors, however, refusal of such leniency is not an abuse of discretion. The juvenile court's order on March 29, 1985, shows that the decision to deny a less restrictive sentence was based upon the psychologist's report of appellant's hostility and the inability of the Toledo Home to handle appellant.

We conclude that the juvenile court fulfilled its statutory obligations and has complied with the duties listed in In the Interest of W.E.G., supra. Therefore, we hold the juvenile court did not abuse its discretion and the sentence is affirmed.

AFFIRMED.