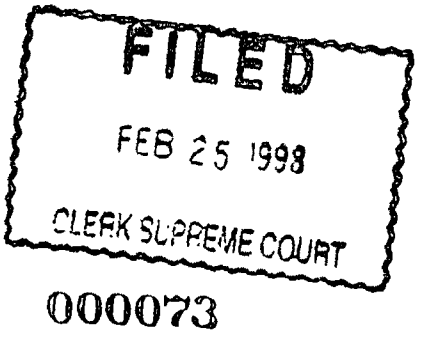
IN THE COURT OF APPEALS OF IOWA



No. 8-051 / 97-1259

000073

IN RE THE INTEREST OF K.D.C., A Child,

K.D.C., A Child,

Appellant.

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke, Associate Juvenile Judge.

K.D.C. appeals the juvenile court order placing him in the custody of juvenile court services for placement in a residential facility. **AFFIRMED.**

Kellyann M. Lekar of Randall, Nelson & Hawbaker, P.L.C., Waterloo, for appellant.

Thomas J. Miller, Attorney General, and Gordon E. Allen, Deputy Attorney General, for appellee-State.

Considered by Huitink, P.J., and Streit and Vogel, JJ.

VOGEL, J.

This appeal concerns the juvenile court's dispositional order placing Kenneth, born April 27, 1982, in residential treatment for sexual offenders. The State filed a petition in September 1996, when Kenneth was fourteen, to adjudicate him delinquent for violation of Iowa Code section 709.11, assault with intent to commit sexual abuse, an aggravated misdemeanor. At the initial hearing Kenneth admitted the violation and the court withheld adjudication, placing him on probation. In November 1996 the court again withheld adjudication but ordered Kenneth to participate in the out-patient sexual offenders program for at least eighteen months. Kenneth's parents are divorced and he lived with his father. In April 1997 the court expanded the order and placed Kenneth in his mother's home. In June, after reports of lack of progress in the program, the court adjudicated Kenneth delinquent and transferred his custody to the Department of Juvenile Court services for placement in a residential sexual offenders program. Kenneth appeals, arguing his learning disability prevents him from completing the written assignments as required by the sexual offenders program. He asserts the court should have chosen a less restrictive placement and kept him in his mother's home.

We review juvenile delinquency cases *de novo*. *In re G.J.A.*, 547 N.W.2d 3, 5 (Iowa 1996). When a child is found to have committed a delinquent act, the court is to enter the least restrictive dispositional order appropriate under the circumstances.

See Iowa Code § 232.52(1). A juvenile court is not required to implement each less restrictive dispositional alternative before reaching a more restrictive one, but should consider each alternative and give reasons for its rejection. *See In re W.E.G.*, 342 N.W.2d 900, 901 (Iowa App. 1983). The court must consider the protection of society as well as whether or not reasonable efforts have been made to keep the child in the home. *In re B.L.*, 491 N.W.2d 789, 792 (Iowa 1992); *In re. N.W.E.*, 564 N.W.2d 451, 888 (Iowa App. 1997); *see* Iowa Code § 232.52(6).

Initially, we note Kenneth cited no authority in support of his argument as required by Iowa Rule of Appellate Procedure 14(a)(3) ("Failure in the brief to state, to argue or to cite authority in support of an issue may be deemed waiver of that issue."). However, because of the nature of this case, we reach the merits.

Kenneth, who was fifteen at the time of the dispositional hearing, was not making progress in the out-patient program. By his own admission he was far behind where he himself thought he should be. He continued to make promises to change without changing behaviors. Kenneth was not receiving maximum benefits from the out-patient program and his behaviors continued to pose high risk to society. His desired placement was simply to maintain the *status quo*. We find his placement in a residential program appropriate under the circumstances and most likely to provide benefit to Kenneth and protection to society. No less-restrictive dispositional alternative is appropriate.

AFFIRMED.