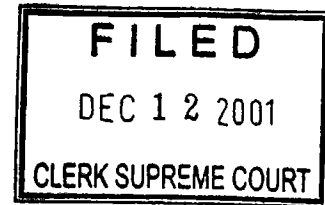


IN THE IOWA COURT OF APPEALS

No. 1-653 / 00-1880
Filed December 12, 2001



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

**J.S., Minor Child,
Appellant.**

Appeal from the Iowa District Court for Black Hawk County, Nathan A. Callahan, District Associate Judge.

A juvenile appeals from the denial of his application to be excluded from the sex offender registry. **AFFIRMED.**

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

Thomas J. Miller, Attorney General, Cristen C. Odell, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Steven Halbach, Assistant County Attorney, for appellee-State

Considered by Sackett, C.J. and Mahan and Hecht, JJ.

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PER CURIAM

A juvenile appeals from the denial of his application to be excluded from the sex offender registry. He claims he is a low risk to reoffend and should not be placed on the registry. We affirm.

On July 1, 1998, Joshua, who was then fifteen years old, was adjudicated to be a juvenile delinquent for committing acts which would constitute the offense of sexual abuse in the second degree if he had been an adult. The juvenile court found Joshua had touched the genital area of a three-year-old child, and had her touch his penis. The petition against Joshua also alleged he had sexual contact with another child under the age of twelve, but Joshua was not adjudicated on this ground.

Joshua was placed in foster group care until there was an opening in a suitable sex offender treatment program. He entered the STOP program in September 1998. Initially, Joshua did not make much progress in treatment. In August 1999 he had consensual sexual contact with another participant in the program. This was considered a violation of the program's rules. In September 1999, the juvenile court ordered that Joshua would be sent to the Iowa State Training School for Boys unless he made progress and had no further substantial rule violations.

Joshua subsequently made progress in the STOP program. In July 2000, Joshua was placed in the care of his father. The juvenile court ordered that upon his discharge from residential treatment he should register as a sex offender. Joshua became eighteen years old on August 13, 2000, and he was released from juvenile court supervision.

Joshua filed a motion to be excluded from the sex offender registry. The State resisted the motion. A hearing was held on October 13, 2000. The juvenile court denied the motion. The court stated Joshua had made good plans for the future, but the court was concerned about whether he would follow through with treatment in the future once the State was no longer monitoring him. The court determined Joshua had not shown progress over a sufficient period of time to exclude him from the sex offender registry. The court noted that if Joshua kept his life on track in the future he could reapply to be excluded from the sex offender registry.

We generally review juvenile delinquency proceedings de novo. *In re S.M.D.*, 569 N.W.2d 609, 610 (Iowa 1997).

Joshua contends the juvenile court should have granted his request to be exempted from the sex offender registry. He claims he has a low potential for reoffending. He points out that he successfully completed treatment and was voluntarily participating in after-care. Joshua admitted he had victimized his younger brother, but asserted he and his brother had begun the healing process.

Chapter 692A requires the registration of sex offenders with the purpose of protecting society. *In re S.M.M.*, 558 N.W.2d 405, 407 (Iowa 1997). The relevant portion of Iowa Code section 692A.2(4) (1999) provides:

A person who is convicted, as defined in section 692A.1, of either a criminal offense against a minor, or an other relevant offense as a result of adjudication of delinquency in juvenile court shall be required to register as required in this chapter unless the juvenile court finds that the person should not be required to register under this chapter.

The statute begins with the general requirement that all offenders in the specified group of crimes be required to register, then allows a juvenile court to excuse registration in some cases. *S.M.M.*, 558 N.W.2d at 407. The court has discretion to determine whether a juvenile should be excused from registering. *Id.* The burden is on the juvenile to rebut the presumption in favor of registration. *Id.*

Joshua's therapist at the STOP program, Don Kieseewetter, testified he did not think Joshua was a high risk to reoffend. Joshua's current therapist, Russell Kinney, testified, "I don't see Josh as a primary risk to the community at this point." On the other hand, Joshua's juvenile probation officer, Robert Speltz, filled out an Iowa Sex Offender Registry Risk Assessment which determined Joshua was a high risk. Speltz's findings were based on the fact the delinquency petition alleged Joshua had committed sexual abuse against two children.

We determine the juvenile court did not abuse its discretion under the facts in this case. There was evidence Joshua had sexually abused three children--the two mentioned in the delinquency petition and his younger brother. The fact that he had multiple victims would tend to increase the likelihood he might reoffend. Additionally, while he was in sex offender treatment, Joshua had consensual sexual contact with another participant of the treatment program. This was clearly against the rules of the program. Joshua continued to talk to this person, even after staff advised him to sever the relationship.

Also, as the juvenile court pointed out, Joshua had been away from State supervision for only a short period of time. While he was continuing with treatment on his own, it was unknown whether he would continue to do so. As

the court mentioned, Joshua could request to be excluded from the sex offender registry at a future time, when he would be able to show a consistent period of commitment to treatment goals.

We affirm the decision of the juvenile court.

AFFIRMED.