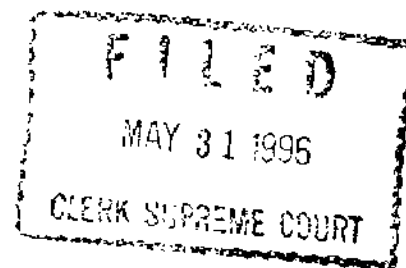


IN THE COURT OF APPEALS OF IOWA

No. 6-112 / 95-1552



IN THE INTEREST OF T.M.W., JR., a Minor Child.

T.M.W., JR.,

Appellant.

Appeal from the Iowa District Court for Davis County, Gene W. Glenn,
Associate Juvenile Judge.

T.M.W., a minor child, appeals a juvenile court dispositional order placing him in a residential facility or highly structured group home after he was adjudicated a delinquent on charges of criminal mischief. **AFFIRMED.**

R. Kurt Swaim of the Swaim Law Office, Bloomfield, for appellant.

Thomas J. Miller, Attorney General, Diane Stahle, Special Assistant Attorney General, Maureen McGuire and Judy Sheirbon, Assistant Attorneys General, and Rick Lynch, County Attorney, for appellee State.

Heard by Cady, P.J., Streit, J., and Peterson, S.J. * Vogel, J., takes no part.

* Senior judge from the First Judicial District serving on this court by order of the Iowa Supreme Court.

PETERSON, S.J.

Timothy, a minor child, appeals the dispositional order of the juvenile court which placed him in a residential treatment facility or highly structured group home after he was adjudicated to have committed the delinquent offenses of criminal mischief in the third and fourth degrees. We affirm.

On April 6, 1995, Timothy went to the Gilfillan Clinic in Bloomfield for a scheduled counseling session with three other boys. On the way into the clinic, Timothy walked on the hood of a 1995 Cadillac Seville causing damages of \$930.

The boys learned they were to have a substitute counselor for the session. They gave the counselor false names, then decided to leave the session and ran out of the building. On the way out, Timothy kicked a glass door, causing the glass to break.

The juvenile court determined Timothy committed the delinquent offenses of criminal mischief in the third degree and criminal mischief in the fourth degree, in violation of Iowa Code sections 716.1, 716.5, and 716.6 (1995). The court ordered that Timothy should undergo an evaluation at the Lamoni Group Home to assist in the pending dispositional hearing.

Timothy has not enjoyed a stable life. Timothy lived with his mother, Dorameta; sister, Misty; and step-father, Wesley. The family moved quite often. They had only recently moved to Bloomfield and were living in a motel. The family might move to Texas if Timothy were placed in the home. Dorameta and the children had

been physically abused by her two previous husbands before she married Wesley Timothy would not obey his mother. The evidence showed the family needed to stabilize their living situation before Timothy could be returned to the home

When Timothy was in the Lamoni Group Home, he had numerous problems with staff directives and respect. He stole stamps, slapped a female peer, cussed profusely, left the group home without permission, used alcohol and marijuana at home, and attempted suicide.

The juvenile court officer and shelter program coordinator recommended that Timothy be placed in foster or residential care. Dr. Bill Porter, a psychologist, diagnosed Timothy as having a conduct disorder, major depression, and dependent personality disorder. Dr. David Windsor, a psychiatrist, diagnosed Timothy as having a conduct disorder, attention deficit disorder, and an adjustment disorder with depressed mood.

In the dispositional order, the juvenile court found Timothy's delinquent behaviors far exceed the present ability of in-home treatment services to correct. The court determined Timothy could not be returned to the home and be protected from the type of harm that gave rise to the delinquency adjudication, which was lack of proper supervision, guidance, and control. The court found reasonable efforts had been made to prevent or eliminate the need for removal from the home. The court concluded the least restrictive alternative available was placement in either residential treatment or highly structured group home placement. Timothy has appealed.

I. Our review of juvenile delinquency cases is de novo. *In re B.B.*, 516 N.W.2d 874, 877 (Iowa 1994). Although we are not bound by the juvenile court's findings, we give weight to those findings. *In re L.A.J.*, 495 N.W.2d 128, 129 (Iowa App. 1992)

II. The court is to enter the least restrictive dispositional order that is appropriate under the circumstances. Iowa Code § 232.52(1); *In re W.E.G.*, 342 N.W.2d 900, 901 (Iowa App. 1983). Reasons for rejecting a less restrictive alternative should be set forth. *Id.* Timothy contends the least restrictive alternative available here was not residential treatment or highly structured group home placement.

We agree with the juvenile court that under the facts of this case, in-home placement is not appropriate. Timothy needs a structured environment to help him learn to take responsibility for his actions. Timothy also needs counseling to help him deal with his emotional problems. Timothy needed more structure and supervision than he was receiving at home. The evidence showed the family's home was unstable.

For these reasons, we conclude Timothy could not be returned to his home. We find the least restrictive alternatives which are appropriate under the facts of the case are to place Timothy in residential treatment or a highly structured group home.

III. Timothy claims reasonable efforts were not made to prevent or eliminate the need for his removal from the home. He states family centered services had only just started and had not had sufficient time to become effective.

Under section 232.54(6), when custody of a child is transferred from his or her parents, the order shall state that reasonable efforts have been made to prevent or

eliminate the need for removal of the child from the child's home. The juvenile court should set forth evidence of any attempt to prevent or eliminate the need for removal of the child from the child's home. *B.L.*, 491 N.W 2d at 791.

The juvenile court found reasonable efforts had been made in this case. Timothy received probationary admonishing, in-home treatment services, and an evaluation. His family also received family-centered in-home treatment services. The court noted some of these services had only been received for a limited time, but found Timothy's delinquent behaviors far exceeded the ability of in-home services to correct.

We agree with the juvenile court's conclusion. There is no requirement in-home services be exhausted before a delinquent child may be removed from the home. The statute requires only *reasonable* efforts to prevent or eliminate the need for removal. What is reasonable depends on the circumstances of the case. Under the facts presented in this case, we determine the efforts which were made were reasonable based on the severity of Timothy's problems.

We have considered the other contentions made by Timothy, and find them to be without merit. We affirm the decision of the juvenile court ordering that Timothy be placed in a residential treatment facility or a structured group home facility.

AFFIRMED.