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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF R.W.P.H., A Minor Child,

Appellant.

Filed August 26, 1987

7-254
87-07

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Appeal from the Iowa District Court for Jasper County (J6-62A), Thomas J. Mott, Judge.

The State brought this delinquency action against a child for committing a delinquent act by operating a motor vehicle without the owner's consent. **AFFIRMED.**

Gilbert R. Caldwell III of Caldwell, Caldwell & Caldwell, Newton, for appellant.

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

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

SCHLEGEL, J.

R.W.P.H. was charged with a delinquent act, it being alleged that he operated a motor vehicle without the owner's consent, in violation of section 714.7 of the Iowa Code (1985). Following trial, the court found the child guilty of the crime, as charged. Following dispositional hearing, the court committed the child to the State Training School for Boys at Eldora, Iowa, for an indeterminate period, not longer than until the child's eighteenth birthday.

The juvenile appeals, claiming (1) the trial court erred in overruling his motion to dismiss the charge against him, and (2) that the trial court erred in its dispositional order. We affirm.

Our review of this juvenile action is de novo. In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981). We accord weight to the fact findings of the juvenile court, especially when considering the credibility of the witnesses whom that court heard and observed firsthand, but we are not bound by those findings. Id

For the purpose of proving guilt beyond a reasonable doubt, circumstantial evidence is as probative as direct evidence. State v. Doss, 355 N.W.2d 874, 878 (Iowa 1984); State v. O'Connell, 275 N.W.2d 197, 204-05 (Iowa 1979). The standard of proof beyond a reasonable doubt applies in every juvenile delinquency proceeding. In re Thompson, 241 N.W.2d 2, 4 (Iowa 1976). If in our de novo review admissible evidence satisfies the reasonable doubt standard, we need not reverse. Id.

I. The juvenile claims that there was insufficient evidence to satisfy the reasonable doubt standard in proving that he operated the motor vehicle involved in the case. In addition to circumstantial evidence given by residents of the residential facility from which the juvenile ran, there was direct evidence that two boys were in the car, while it proceeded at a high rate of speed and

was involved in the wreck. That evidence showed that one of the boys had blond hair and the other had dark hair, and that the dark-haired boy was driving the car. The two boys were seen getting out of the car after the wreck, and were picked up close by, suffering injuries consistent with those that would be suffered in such a wreck. The dark-haired boy was R.W.P.H.

On our de novo review, we find the evidence, both circumstantial and direct, proves beyond a reasonable doubt that R.W.P.H. was operating a motor vehicle without the owner's consent. The court committed no error in refusing to sustain the motion to dismiss.

II. The juvenile next contends that the trial court erred in its dispositional order, because it failed to state that reasonable efforts had been made to prevent or eliminate the need for removal of the child from his home, citing mandatory language from section 232.52 of the Iowa Code (1985). We disagree. Section 232.52(6) states as follows:

> 6. When the court orders the transfer of legal custody of a child pursuant to subsection 2, paragraphs "d," "e," or "f," 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.[1]

The record made in the disposition hearing showed that of the sixteen years of the juvenile's life, he had been out of the family home almost fourteen years. The record showed a severe dysfunction of that home, with the juvenile having been subjected to abuse of various types, and a total lack of direction, control, or security. From the record, we conclude that home placement was not a reasonable alternative. The trial judge so found, and his order adequately reflects his consideration and rejection of that alternative. The court stated:

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[1] Transfer to the commissioner of the department of human services for purposes of placement in the state training school is covered by section 232.52(2)(e).

> His previous out-of-home placements include seven shelter care facilities, three inpatient drug treatment programs, one residential treatment foster care facility, three placements at the Iowa Juvenile Home at Toledo, and one commitment to the Mental Health Institute at Independence, Iowa. He has been unmanageable at his mother's home, he has run away from his mother's home, and from other youth facilities. The Respondent is not likely to gain the maximum benefits from an insecure placement. I find that under the circumstances, the least restrictive disposition appropriate, considering the seriousness of the delinquent act, the child's culpability, age, and prior record, is the State Training School for Boys at Eldora.

It would be difficult to find a more eloquent description of the reasons why home placement would not be a viable option, and we find that it does not lack compliance with the statute. We affirm the trial court's disposition, and confirm its disposition order.

AFFIRMED.