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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1209**

In the Matter of the Welfare of: J.T.S.

**Filed August 12, 2008
Affirmed
Minge, Judge**

Washington County District Court
File No. JV-2007-831

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Considered and decided by Minge, Presiding Judge; Huspeni, Judge;* and
Muehlberg, Judge.**

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

** Retired judge of the district court, serving as judge of the Minnesota Court of Appeals
by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

MINGE, Judge

Appellant challenges his juvenile disposition, arguing that the district court abused its discretion by ordering out-of-home residential placement following his first adjudication as a juvenile delinquent. We affirm.

FACTS

On April 13, 2007, appellant J.T.S. and his mother started arguing because J.T.S. had been caught with marijuana at school and his mother told him that he would have to enter treatment. During the argument, J.T.S. made threats that frightened his mother, claiming he had a gun and threatening to kill any police or human services employee who tried to take him to treatment. Mother fled the house and contacted human services. Woodbury police were subsequently alerted to the threat. J.T.S. was arrested and charged by delinquency petition with felony terroristic threats and misdemeanor domestic assault.

J.T.S. subsequently pled guilty to reduced charges of misdemeanor disorderly conduct and misdemeanor domestic assault. The county recommended placing J.T.S. at Woodland Hills in Duluth, a non-secure residential treatment program serving high risk youth, for a period of six to 12 months. J.T.S. objected to the recommendation and requested a contested disposition hearing. After a hearing, the district court adjudicated J.T.S. delinquent, placed him on supervised probation, and ordered participation in the Woodland Hills program at the earliest possible date. This appeal follows.

DECISION

The issue is whether the district court abused its discretion by placing J.T.S. in a residential treatment facility three hours away from his home following his first adjudication as a juvenile delinquent. J.T.S. contends that the disposition did not serve his best interests and did not represent the least-restrictive alternative necessary to restore him to law-abiding conduct.

“In delinquency cases, district courts have broad discretion to order dispositions authorized by statute.” *In re Welfare of J.B.A.*, 581 N.W.2d 37, 38 (Minn. App. 1998), *review denied* (Minn. Aug. 31, 1998). “Absent a clear abuse of that discretion, the disposition will not be disturbed.” *Id.* “The goal of delinquency dispositions is to rehabilitate the offender.” *In re Welfare of M.A.C.*, 455 N.W.2d 494, 498 (Minn. App. 1990). A district court’s disposition must be necessary to achieve that goal, and the severity of both the act and the proposed disposition must be considered by the court. *Id.*

A juvenile court disposition that removes a child from the home must be supported by findings that address five subjects: (1) why public safety is served by the disposition; (2) why the best interests of the child are served by the disposition; (3) what alternative, less-restrictive dispositions were proposed to the court and why such recommendations were not ordered; (4) why the child’s present custody is unacceptable; and (5) how the correctional placement meets the child’s needs. *In re Welfare of C.A.W.*, 579 N.W.2d 494, 497-98 (Minn. App. 1998); Minn. R. Juv. Delinq. P. 15.05, subd. 2(A). Moreover, when making a disposition, the district court must consider whether a particular disposition will serve the following established principles:

(1) Necessity. It is arbitrary and unjust to impose a disposition that is not necessary to restore law abiding conduct. Considerations bearing on need are:

(a) Public Safety. The risk to public safety, taking into account:

(i) the seriousness of the alleged offense in terms of community protection . . . ;

(ii) the culpability of the child in committing the alleged offense . . . ;

(iii) the child's prior record of delinquency;

(iv) the child's programming history, including the child's past willingness to participate meaningfully in available programming; and

(b) Proportionality. The principle that the disposition be proportional, that is, the least restrictive action consistent with the child's circumstances.

(2) Best Interests. A disposition must serve the best interests of the child, but this does not supersede the requirement that the disposition be necessary. The promise of benefits in a disposition, or even the suggestion that a particular disposition is best for the child, does not permit a disposition that is not necessary.

Minn. R. Juv. Delinq. P. 15.05, subd. 2(B).

We recognize that a juvenile disposition involving the removal of a first-time juvenile offender from the home is unusual and generally inappropriate. In this context, we have stated that “the legal preference against out-of-home placements is an historic cornerstone of the juvenile court [T]here should be a presumption in favor of keeping the child in his own home and his own community, except when adequate investigation shows this not to be in the best interest of the child.” *In re Welfare of J.A.J.*, 545 N.W.2d 412, 426 (Minn. App. 1996) (quotation omitted); *see also* Minn. R. Juv. Delinq. P. 15.05, subd. 2(B)(3) (“Public policy mandates that the best interests of the

child are normally served by parental custody. Where an out-of-home placement is being considered, the placement should be suitable to the child's needs.”).

Here, the district court made approximately 20 pages of detailed factual findings and well-reasoned conclusions of law supporting its determination that placement at Woodland Hills served J.T.S.'s best interests and was the least-restrictive alternative necessary to restore law-abiding conduct. The district court thoroughly weighed the considerations listed in Minn. R. Juv. Delinq. P. 15.05 and outlined in *C.A.W.*, 579 N.W.2d at 497-98. First, the district court concluded that public safety would be served by J.T.S.'s removal from the community at a time when J.T.S. would be at high risk to reoffend. The district court also noted that the specific program at Woodland Hills would reduce the likelihood of re-offense, thereby protecting the public from future offenses.

Second, the district court found that residential placement served J.T.S.'s best interests because the program would develop a comprehensive case plan to address the areas identified in J.T.S.'s Youth Level of Service and Case Management Inventory, rather than a patchwork of community programming that would be less concentrated and fragmented. The district court noted that, at age 16, J.T.S.'s best interests would be served by more focused intervention and a subsequent return to the community with tools to avoid future problems.

Third, the district court considered numerous community-based services and placements, including short-term correctional placement, juvenile intensive supervision, in-home therapy, counseling, day treatment programming, the Anoka County Long Term Residential Program, the Bar None Residential Treatment Program, and the Elmore

Academy Residential Treatment Program. The district court ultimately rejected community-based services for two reasons: (1) J.T.S. had received such services in the past, but his chemical use and anger management problems had continued; and (2) the county and J.T.S.'s psychological evaluation recommended residential placement. Furthermore, the district court concluded that the alternative residential treatment programs closer to J.T.S.'s home were inappropriate because they did not include chemical dependency programming. The district court also noted that the Anoka County residential facility is secure and more confining, while Woodland Hills provides treatment in a non-secure setting.

Fourth, the district court found that J.T.S.'s present custody situation was unacceptable. Previously, while living at home with his mother and receiving services through the community, the school, and Human Services, Inc. (a social services agency), J.T.S. continued to have problems, including fighting at school, drug use, disobedience at home and, eventually, the offense that resulted in detention. The district court also doubted J.T.S.'s intentions to change his conduct.

Last, the district court found that Woodland Hills best served J.T.S.'s treatment needs because the program addressed specific areas in J.T.S.'s life placing him at risk for future offenses. The district court noted that chemical use was identified as a problem area for J.T.S., and Woodland Hills incorporated a chemical dependency treatment component into its program. Moreover, because Woodland Hills is a non-secure facility, it presented a less-restrictive alternative to the other correctional placements considered, even if the other options were closer to J.T.S.'s home.

We observe that in considering the disposition, the district court made detailed findings supporting its conclusion that the placement was necessary to restore law-abiding conduct (considering public safety in light of the seriousness of the offense, the culpability of J.T.S. in committing the offense, and J.T.S.'s prior record and programming history) and represented the least restrictive action consistent with J.T.S.'s circumstances. *See* Minn. R. Juv. Delinq. P. 15.05, subd. 2(B)(1).

These findings are adequately supported by the record. While the district court's disposition was atypical in light of our previous decisions and generally disfavored as a matter of public policy, the district court's detailed findings and careful application of the law support its determination that Woodland Hills offered the proper program. Accordingly, we conclude that the district court's disposition did not represent an abuse of discretion.

Affirmed.

Dated: