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**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-0817**

In the Matter of the Welfare of:
J. S. L., Child.

**Filed April 7, 2009
Affirmed
Klaphake, Judge**

Rice County District Court
File No. 66-JV-08-1030

Lawrence Hammerling, Chief Appellate Public Defender, Leslie J. Rosenberg, Assistant State Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant J.S.L.)

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Benjamin Bejar, Assistant Rice County Attorney, Rice County Attorney's Office, 218 N.W. Third Street, Faribault, MN 55021 (for respondent State of Minnesota)

Considered and decided by Peterson, Presiding Judge; Klaphake, Judge; and Crippen, Judge.*

UNPUBLISHED OPINION

KLAPHAKE, Judge

J.S.L., born February 10, 1992, was adjudicated delinquent of felony-level fifth-degree assault, Minn. Stat. § 609.224, subd. 4 (2006), and gross misdemeanor possession

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

of a firearm in a public place, Minn. Stat. § 624.7181, subd. 2 (2006). On appeal, he challenges the district court's dispositional decision that orders him to be placed at the Minnesota Correctional Facility at Red Wing (Red Wing), rather than at the Dakota County Correctional Center. Because the record supports the district court's findings and the findings meet the dispositional criteria, we affirm.

D E C I S I O N

A district court's delinquency disposition must be "the least drastic step necessary to restore law-abiding conduct in the juvenile." *In re M.R.S.*, 400 N.W.2d 147, 151 (Minn. App. 1987); *see* Minn. Stat. § 260B.198, subd. 1 (2006) (directing dispositional decision to be that "necessary to the rehabilitation of the child"); Minn. Stat. § 260B.198, subd. 1(m) (2006) (requiring any disposition ordered to consider best interests of child). A disposition that includes out-of-home placement must address the necessity of "protecting the public; . . . protecting program residents and staff and . . . preventing juveniles with histories of absconding from leaving treatment programs." *Id.*, subd. 4 (2006); *see In re Welfare of J.S.S.*, 610 N.W.2d 364, 366-67 (Minn. App. 2000) (combining statutory factors with rules of juvenile procedure in list of five factors that must be considered in dispositional decision; those factors include risk to public safety, the juvenile's best interests, alternative dispositions, present custody arrangement, and the suitability of the correctional placement ordered).

"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.*

Appellant claims that the district court abused its discretion by ordering his out-of-home placement at Red Wing, because that placement was disproportionate to the severity of his offenses and therefore was not the least restrictive disposition option to effectuate his return to lawful conduct. Appellant argues that his offenses were not sufficiently serious to merit his incarceration at Red Wing: no one was injured during the incident that resulted in his delinquency adjudication, and the weapon he brandished during the incident was only a BB gun. He also points out that his prior offenses were not felony-level offenses and that in general his behavior “greatly improved” following his last secure detention in Anoka County.

Our review of the record reveals that the district court’s findings meet the statutory criteria and support its decision to place appellant at Red Wing. The court took into account appellant’s prior offense history, which includes two assaults against separate victims, a high risk of reoffending, and indications of gang involvement, and appellant’s specific conduct, which includes intentionally carrying a “persuasive facsimile” replica weapon and driving to a large melee in a park “for the very purpose of engaging in the fight.” The court specifically rejected a probationary disposition because appellant’s history demonstrates that he has been unable to remain law-abiding while on probation. The court also compared the residential placement options of Dakota County and Red Wing and rejected the Dakota County option because “it did not offer the range of educational and psychological programming available at STS-Red Wing” and because

Red Wing could offer appellant reentry programming. The findings were supported by the evidence presented at the disposition hearing, including the probation officer's disposition report, which enumerates and compares each placement option. Under these circumstances, the court's dispositional decision was a proper exercise of its discretion.

Affirmed.