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**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1230**

In the Matter of the Welfare of:
G. N. K., Child

**Filed January 17, 2012
Affirmed
Klaphake, Judge**

St. Louis County District Court
File No. 69DU-JV-10-1181

David W. Merchant, Chief Appellate Public Defender, Benjamin J. Butler, Assistant Public Defender, St. Paul, Minnesota (for appellant G.N.K.)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Charles P. Schumacher, Assistant St. Louis County Attorney, Duluth, Minnesota (for respondent State of Minnesota)

Considered and decided by Larkin, Presiding Judge; Klaphake, Judge; and Hudson, Judge.

UNPUBLISHED OPINION

KLAPHAKE, Judge

Appellant G.N.K.'s probation was revoked after he was discovered leaving a Duluth house during a burglary in the early morning hours of December 16, 2010. Appellant admitted to the probation violation, and after a disposition hearing, the district court ordered appellant placed at MCF-Red Wing, a secure facility for juvenile offenders. Appellant claims that the district court abused its discretion by failing to order him placed

at a less secure facility and erred by failing to make sufficient findings to support its decision. We affirm because we conclude that the record amply shows that no other reasonable alternative disposition was available and because the district court's findings were sufficient to support its decision.

D E C I S I O N

A district court has “broad discretion in determining if there is sufficient evidence to revoke probation and should be reversed only if there is a clear abuse of that discretion.” *State v. Austin*, 295 N.W.2d 246, 249-50 (Minn. 1980) (citations omitted). In a juvenile case, the district court may apply its discretion to order any disposition 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). If the district court did not clearly abuse its discretion in ordering a juvenile disposition, this court will not disturb the disposition. *Id.*

The goal of a delinquency adjudication is “to rehabilitate the offender.” *In re Welfare of M.A.C.*, 455 N.W.2d 494, 498 (Minn. App. 1990). To that end, a district court's delinquency disposition must be “the least drastic step necessary to restore law-abiding conduct in the juvenile.” *In re Welfare of M.R.S.*, 400 N.W.2d 147, 151 (Minn. App. 1987); *see* Minn. Stat. §§ 260B.198, subd. 1 (requiring dispositional decision to be “necessary to the rehabilitation of the child”); .198, subd. 1(13)(i) (2010) (requiring disposition decision to address the best interests of the child). Before a juvenile is placed in a secure treatment facility, the district court may:

- (1) consider whether the juvenile has been adjudicated for a felony offense against the person or that in addition to the current adjudication, the juvenile has failed to appear in

court on one or more occasions or has run away from home on one or more occasions;

(2) conduct a subjective assessment to determine whether the child is a danger to self or others or would abscond from a nonsecure facility or if the child's health or welfare would be endangered if not placed in a secure facility;

(3) conduct a culturally appropriate psychological evaluation which includes a functional assessment of anger and abuse issues; and

(4) conduct an educational and physical assessment of the juvenile.

Minn. Stat. § 260B.198, subd. 4 (2010). But in ordering secure placement, the district court must consider the necessity of:

(i) protecting the public;

(ii) protecting program residents and staff; and

(iii) preventing juveniles with histories of absconding from leaving treatment programs.

Id.

Appellant first argues that MCF-Red Wing is not the least-restrictive disposition option and placement there does not serve public safety or his best interests. The district court's findings review appellant's extensive juvenile history, including his mental health and behavioral problems, chemical dependency, numerous failed placements, recidivism, refusal or inability to cooperate in previously ordered placements or get along with his peers, absconding, and a recent suicide threat. The court also considered the recommendations of appellant's case manager from his most recent placement and of his

probation officer, both of whom recommended placement at MCF-Red Wing because there was not a less restrictive placement alternative. The district court's findings also show that the probation officer consulted with a disposition recommendation screening committee before recommending placement at MCF-Red Wing.

The district court did not specifically compare placement at MCF-Red Wing with the placements urged by appellant, the AJC Program (Arrowhead Juvenile Center Program) or MCF-Red Wing STOP program (Short Term Options Program). But the record establishes that neither of these proposed placements was appropriate in light of the seriousness of appellant's issues and his complete failure at every other less-restrictive placement. The STOP program is designed for first-time offenders, and appellant has attended the AJC program three times. Both programs are short term in comparison to the long-term MCF-Red Wing program, which offers counseling, substance abuse programming, life skills training, educational services, mental health services, and community transition in a locked facility. The district court's finding that MCF-Red Wing is the least restrictive dispositional placement is supported by the record and is in appellant's best interests.¹

Appellant also asserts that his placement at MCF-Red Wing is not supported by public safety considerations. However, the record demonstrates that appellant's behavior puts others at risk, including staff and fellow juveniles, and appellant has expressed a suicidal wish, which constitutes a danger to himself. Further, he absconded from his last

¹ Appellant acknowledges that neither party made the district court aware of the STOP program as a dispositional option. This also supports the district court's dispositional decision.

placement, which was in a less secure facility, refused to take medication that might have controlled his impulses, and has a consistent history of recidivism, all of which are a risk to public safety.

The district court's findings and the underlying record support the district court's decision that there were not less restrictive alternatives to the district court's decision to place appellant at MCF-Red Wing.

Second, appellant argues that the district court's findings are insufficient to support its dispositional decision. Minn. Stat. § 260B.198, subd. 1(13) requires the court to make written findings supporting the ordered disposition, specifically including a best interests analysis and consideration of alternative dispositions "and why such dispositions were not appropriate in the instant case." Failure to make these required findings is reversible error. *In Re Welfare of N.T.K.*, 619 N.W.2d 209, 212 (Minn. App. 2000).

The district court's findings review in detail appellant's extensive juvenile history and numerous previous placements, and note his chronic and unchanged behavior. The findings also review the placement alternatives and reject those that offer a less secure setting. These findings precede the district court's ultimate finding that "Red Wing will provide the necessary structure and supervision for [appellant]. Red Wing will help [appellant] address his behavior and is the only available placement that will meet [appellant's] needs." In other subsequent findings, the court states that placement at Red Wing "outweighs the policies favoring other less-restrictive alternatives" and that the placement is in appellant's best interests. Because the record and the court's findings support its decision and because there were no viable alternative dispositions to be

considered by the court due to appellant's exhaustion of all other placement options, we affirm the district court's disposition decision. *See M.R.S.*, 400 N.W.2d at 151 (requiring dispositional findings that "address the dispositional choices considered by the court and *reasons why one is preferred*").

Affirmed.