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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0267**

In the Matter of the Welfare of: A.J.U., Child

**Filed February 12, 2008
Affirmed
Stoneburner, Judge**

Blue Earth County District Court
File Nos. JV063434, JV063366, JV063287

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Ross E. Arneson, Blue Earth County Attorney, Melanie A. Boes, Assistant County Attorney, 410 South Fifth Street, P.O. Box 3129, Mankato, MN 56002-3129 (for respondent)

Considered and decided by Peterson, Presiding Judge; Stoneburner, Judge; and Wright, Judge.

UNPUBLISHED OPINION

STONEBURNER, Judge

On appeal from a juvenile disposition, appellant argues that the district court violated his statutory right to the least-restrictive placement by placing him in a correctional facility instead of a treatment facility. Because the record supports the disposition, we affirm.

DECISION

“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.* Minnesota statute section 260B.198 provides a broad range of allowable dispositions for a juvenile who has been adjudicated delinquent, including the transfer of legal custody by commitment to the commissioner of corrections. Minn. Stat. § 260B.198, subd. 1(d) (2006).

Fifteen-year-old appellant A.J.U., pleaded guilty to one count of second-degree burglary, one count of fifth-degree assault, and one count of gross misdemeanor obstruction of legal process. A.J.U. has a lengthy record of delinquency and failed court-ordered placement, and at disposition, he did not challenge the need for out-of-home placement. A.J.U., however, sought placement in a therapeutic treatment facility rather than a correctional facility. After an evidentiary hearing, the district court committed A.J.U. to the Red Wing Correctional Facility until his discharge or until his nineteenth birthday.

The district court made written findings supporting the disposition as required by Minn. Stat. § 260B.198, subd. 1(m), and Minn. R. Juv. Delinq. P. 15.05, subd. 2(A). The findings discuss alternative dispositions that the district court considered, which included St. Cloud Children’s Home and Gerard Treatment Facility. The district court found that A.J.U. had previously been placed at Gerard but failed to cooperate with the program and was eventually removed. The district court found that A.J.U. failed to cooperate with

programming at other treatment facilities as well. The district court found that placement at Red Wing is in A.J.U.'s best interests "because it has programming that addresses each of [A.J.U.'s] stated needs, including a comprehensive cognitive-behavior restructuring program, skill development, mental health and chemical dependency treatment," and Red Wing, unlike other programs, will not ask A.J.U. to leave for behavioral reasons. The district court concluded that, in light of A.J.U.'s history of repeatedly engaging in serious criminal activity on his release from treatment and detention, public safety compels A.J.U.'s commitment to Red Wing.

On appeal, A.J.U. does not specify which of the district court's findings are clearly erroneous, but he argues that the district court abused its discretion by rejecting therapeutic programs proposed as appropriate less-restrictive alternatives to Red Wing, and by failing to explore whether A.J.U. could re-enter Gerard or wait for an opening at St. Cloud Children's Home or other suitable treatment facility. A.J.U.'s argument is based on the testimony of Dr. Tara Buhl, a psychiatrist at the Mankato Clinic who met with A.J.U. six times to perform a diagnostic assessment at his mother's request.

Dr. Buhl is very interested in what she described as a "new phenomenon" of pervasive developmental disorder (PDD), the most severe form of which is autism. PDD affects how an individual receives and processes information and communicates with others. Dr. Buhl testified that she is very knowledgeable about PDD and that she is concerned that doctors and therapists in correctional facilities are not trained to consider or diagnose PDD.

In her work with A.J.U., Dr. Buhl observed in particular his communication deficits, and she developed a strong concern that A.J.U. suffers from PDD. Dr. Buhl noted that A.J.U. has never been tested for PDD, but also clarified that there is not an accurate test for diagnosing PDD in adolescents. Diagnosis, according to Dr. Buhl, would require someone to closely observe A.J.U. over an extended period of time and look for certain behaviors.

When asked what would be appropriate treatment for A.J.U., Dr. Buhl testified: “Well, I think it would be really a neat idea to see him in some type of therapeutic setting where somebody can actually start to address these communication things.” She admitted that she knows little about Red Wing’s programming but opined that a consequence-based correctional program will have little effect on A.J.U. if he is not taught “what good behavior is” or necessary communication skills. She agrees that, consistent with three prior diagnoses, A.J.U. also suffers from a conduct disorder, but stresses that she is the first person to consider that A.J.U. also has PDD. Dr. Buhl warned that until A.J.U.’s underlying “communication thing” is “sorted out,” traditional group therapy will not be particularly helpful to him. Dr. Buhl’s concerns with Red Wing are that because A.J.U.’s peers will be “other thugs” he will not learn appropriate peer skills, and that Red Wing will not be able to address his underlying communication problems.

The district court asked Dr. Buhl where A.J.U. should be placed. Dr. Buhl mentioned St. Cloud Children’s Home and Bar None and stated that she has had success with programs where she can talk to the treating facility, explain “this stuff,” and “tell

them [to] use [a] relationship development[-]instruction approach.” Dr. Buhl testified that she is willing to educate the staff at any facility where A.J.U. is placed.

The district court’s findings concerning Dr. Buhl’s diagnosis and opinions are supported by the record, as is the district court’s finding that Dr. Buhl did not present the court with viable placement options. The district court did not disregard Dr. Buhl’s testimony, and specifically ordered A.J.U.’s probation agent to provide Red Wing with Dr. Buhl’s reports regarding her diagnosis of PDD.

We conclude that A.J.U. has failed to show that the district court’s findings are clearly erroneous. There is no evidence in the record that alternative facilities mentioned by Dr. Buhl or A.J.U.’s counsel would accept A.J.U. or could address public safety concerns. And there is no evidence in the record, beyond Dr. Buhl’s speculation, that Red Wing is unable to diagnose and treat PDD in addition to providing the consequence-based program necessary to address A.J.U.’s conduct disorder.

Affirmed.