AFFIRMED and Opinion Filed June 2, 2020

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-19-00763-CV

IN THE MATTER OF J.S., A JUVENILE

On Appeal from the 305th Judicial District Court
Dallas County, Texas
Trial Court Cause No. JD-17-01369-X

MEMORANDUM OPINION

Before Justices Partida-Kipness, Nowell, and Evans
Opinion by Justice Evans

J.S., a juvenile, appeals the trial court's order committing him, at age seventeen, to the Texas Juvenile Justice Department (TJJD) following its adjudication that he violated the terms and conditions of his probation. In his sole issue, appellant contends the trial court abused its discretion, generally arguing the evidence is legally and factually insufficient to support the trial court's findings. We affirm the trial court's order for the reasons that follow.

BACKGROUND

In November 2017, the State filed a petition asserting appellant engaged in delinquent conduct in October 2017. It was alleged appellant committed the offense

of robbery, a second degree felony. The record reflects that the petition was filed as a result of appellant's actions in trying to steal from a stranger at a car wash by choking him. In January 2018, appellant was detained for ten days because "suitable supervision, care, or protection is not being provided by a parent, guardian, custodian or other person." In February 2018, appellant was released to his mother under home detention pending disposition and among other things, ordered to participate in Pre-Adjudicative Intensive Disposition (PAIS). A March 6, 2018 Addendum to a February 1, 2018 Predisposition Report indicates that appellant struggled with complying with his PAIS terms and conditions of release, was suspended from high school for three days, ran away from home for a couple of days, and failed to report to his probation officer for three consecutive weeks. Although an April 6 addendum noted appellant had made some improvements in his behavior during the following month, the trial court ordered appellant detained on April 12, 2018, finding, among other things, he violated the PAIS program, and his mother was not providing suitable supervision.[1]

On May 7, 2018, appellant was adjudicated a child engaged in delinquent conduct after the trial court found beyond a reasonable doubt that he committed robbery. In accordance with the probation officer's recommendation in the April

[1] According to an April 24 presentence addendum, appellant ran away from home the night before his April 11 disposition hearing. The probation officer indicated a psychological assessment recommended appellant would benefit from increased structure, supervision, boundaries and support.

24 presentence addendum, appellant received probation for one year and was placed at Dallas County Youth Village (DCYV). About one week later, the State moved to modify disposition alleging he violated the conditions of his probation by engaging in conduct that caused him to be discharged unsatisfactorily from DCYV. Again, in accordance with the recommendation of the administrative triage committee of the probation department, on June 6, the trial court ordered appellant to one year probation at Lyle B. Medlock Residential Treatment Center.

In November 2018, the State filed another motion to modify disposition alleging appellant violated the conditions of his probation by engaging in conduct that caused him to be discharged unsatisfactorily from Medlock. After a hearing, in January 2019, the trial court ordered that appellant be placed on probation for one year at Canyon State Academy in Arizona.

In April 2019, the State filed its third motion to modify disposition resulting in the order that is the subject of this appeal. Like the preceding motions, the State alleged appellant engaged in conduct causing him to be discharged unsatisfactorily from Canyon State Academy. The trial court held a hearing on June 5, 2019 at which time appellant entered an open plea of true to the State's allegation that he violated condition 2 of his probation. The trial court heard testimony from appellant, his mother, and the probation officer to whom appellant reported for the preceding four months. The judge also took judicial notice of documents in the electronic file, including various supplements and addendums to predisposition reports. Although

the probation officer recommended appellant be returned to Medlock a second time, the trial court rejected this recommendation and committed appellant to the TJJD. This appeal followed.

ANALYSIS

In a single issue on appeal, appellant contends the trial court abused its discretion in committing him to the TJJD. He argues specifically that the evidence is legally and factually insufficient to support the trial court's following findings: (1) reasonable efforts were made to prevent or eliminate the need for appellant's removal from home and make it possible for him to return home, (2) at his home, appellant cannot be provided the quality of care and level of support and supervision needed to meet his probation conditions, and (3) it is in appellant's best interest to be placed outside his home.

A juvenile court has broad discretion to determine the proper disposition of a child adjudicated as engaging in delinquent conduct. *See In re C.G.*, 162 S.W.3d 448, 452 (Tex. App.—Dallas 2005, no pet.). A trial court abuses its discretion when it acts unreasonably or arbitrarily and without reference to guiding rules and principles. *In re J.M.*, 433 S.W.3d 792, 795 (Tex. App.—Dallas 2014, no pet.). Absent an abuse of discretion, we will not disturb the trial court's findings. *In re C.G.*, 162 S.W.3d at 452.

For a trial court to commit a juvenile to TJJD, it must make the three findings listed above. *See* TEX. FAM. CODE § 54.04(i). Under our review of a disposition

order for an abuse of discretion, legal and factual sufficiency are relevant factors in assessing whether the trial court abused its discretion in making necessary findings. *See In re C.G.*, 162 S.W.3d at 452. For legal sufficiency, we consider evidence favorable to the finding if a reasonable factfinder could, disregarding contrary evidence unless a reasonable factfinder could not, and will set aside the trial court's judgment only when there is no evidence to support the findings. *See In re G.O.*, No. 05-19-01429-CV, 2020 WL 1472218, at *3 (Tex. App.—Dallas Mar. 26, 2020, no pet. h.) (mem. op.). When reviewing for factual sufficiency, we determine whether the finding is so against the great weight and preponderance of the evidence as to be manifestly unjust. *Id*.

Although released to his mother pending the original disposition of the petition, the record reflects appellant was struggling with his terms and conditions of his release. Having been suspended from high school for three days in February 2018, having run away from home for a couple of days, and having failed to report to his probation officer for three consecutive weeks, appellant was referred to the home detention and electronic monitoring programs. In March, the Irving Police told appellant's probation officer that appellant was caught stealing another student's headphones. Appellant's mother also said appellant took his brother's medication from their home and attempted to sell it at school. In May, appellant was adjudicated with a disposition of one year of probation at DCYV where he was unsatisfactorily discharged less than a week later for making threats to physically assault the staff

and for trying to run away from the facility. Appellant was then placed at Medlock. About five months later, he was unsatisfactorily discharged from Medlock for, among other things, physically assaulting staff and other residents. The trial court followed the probation department's recommendation and placed appellant on probation for one year at Canyon State Academy. About one and a half months after his placement at Canyon State Academy, however, he was unsuccessfully discharged for verbally and physically threatening staff, not following instructions, and engaging in physical altercations with peers. At the hearing to modify disposition, appellant's probation officer recommended that appellant be returned to Medlock for rehabilitation. The State, on the other hand, urged the trial court to consider TJJD. At the hearing, appellant's probation officer acknowledged that appellant had already been unsuccessfully discharged from Medlock and that TJJD would also be able to meet appellant's needs. Appellant's mother testified she wanted appellant to come home stating she thought "[e]verybody deserves more than one chance in life." There was nothing presented to indicate the situation had improved at appellant's home from the time he was initially removed for failure to comply with his probation requirements. Mother offered no evidence of a plan to keep appellant out of trouble or in compliance with probation requirements. Appellant testified that between Medlock and TJJD, he wanted to be placed at Medlock.

The evidence demonstrates appellant repeatedly violated the terms of his probation by failing to comply with various programs associated with his release home including home detention, the YAP program, and the PAIS program. He also was unsuccessfully discharged from three separate placements for bad behavior. Indeed, the record reflects that the probation department concluded appellant needed more structure than home detention provided at the time of the adjudication for this robbery offense in May 2018. When he was first released to his home, he failed to comply with home detention and electronic monitoring, was suspended from school, and ran away from home. Viewing the evidence under applicable standards of review, we conclude sufficient evidence supports each of the three statutorily required findings and further conclude the trial court did not abuse its discretion in ordering appellant committed to the TJJD. We resolve appellant's sole issue against him.

CONCLUSION

Based on the record before us, we conclude the trial court did not abuse its discretion in ordering appellant committed to the TJJD. We affirm the trial court's order modifying disposition with TJJD commitment.

/David Evans/
DAVID EVANS
JUSTICE

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Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

IN THE MATTER OF J.S., A JUVENILE	On Appeal from the 305th Judicial District Court, Dallas County, Texas Trial Court Cause No. JD-17-01369-X.
No. 05-19-00763-CV	Opinion delivered by Justice Evans, Justices Partida-Kipness and Nowell participating.

In accordance with this Court's opinion of this date, the trial court's order modifying disposition with T.J.J.D. commitment is **AFFIRMED**.

Judgment entered June 2, 2020.