COURT OF APPEALS
DECISION
DATED AND FILED

August 21, 2002

Cornelia G. Clark
Clerk of Court of Appeals

Appeal No. 02-0939-FT **Cir. Ct. No. 00-JV-68**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT II

IN THE INTEREST OF JONATHAN S.,
A PERSON UNDER THE AGE OF 18:

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

V.

JONATHAN S.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Kenosha County: MARY KAY WAGNER-MALLOY, Judge. *Affirmed.*

¶1 SNYDER, J.[1] Jonathan S. appeals from a court order granting the State's petition to place him at the Ethan Allen School for Boys. Jonathan argues

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (1999-2000). All statutory references are to the 1999-2000 version unless otherwise noted.

that the juvenile court improperly transferred his custody to corrections because it did not make sufficient findings on the record as required by the governing statutes. From our review of the record, we are satisfied that the juvenile court conducted an adequate inquiry to determine that Jonathan is a danger to the public and correctly concluded that he is in need of restrictive custodial treatment at Ethan Allen.

FACTS

¶2 Jonathan is an adjudicated delinquent who was placed under supervision with various conditions. On September 27, 2001, a hearing was held on a petition for extension and change of placement because Jonathan was found to have violated the juvenile court's orders on numerous occasions. The court granted an extension of supervision for one year, authorized placement in a group home, and revised the dispositional order to a stayed correctional placement at Ethan Allen. On October 12, 2001, a petition for change of placement was filed with the juvenile court, requesting that the stay of correctional placement be lifted because Jonathan had repeatedly violated the court's orders. On October 17, 2001, the court lifted the stay and ordered Jonathan placed at Ethan Allen. Jonathan appeals from this order.

DISCUSSION

¶3 WISCONSIN STAT. § 938.357 allows a court to transfer a juvenile to a secured correctional facility, provided that during the dispositional hearing the court finds on the record that:

> (a) The juvenile has been found to be delinquent for the commission of an act which if committed by an adult would be punishable by a sentence of 6 months or more.

> (b) The juvenile has been found to be a danger to the public and to be in need of restrictive custodial treatment....

WIS. STAT. § 938.34(4m)(a), (b).

¶4 Both Jonathan and the State agree that the juvenile court is empowered to use its discretion to make or revise Jonathan's dispositional orders. A court utilizes its discretion when it "considers the facts of record and reasons its way to a rational, legally sound conclusion." ***Burkes v. Hales***, 165 Wis. 2d 585, 590, 478 N.W.2d 37 (Ct. App. 1991). The court's discretion is "so essential" to its function that on appeal we will affirm the court's decision so long as it acted reasonably and consistent with applicable law, even if we would have decided differently. ***Id.*** at 590-91.

¶5 Jonathan does not dispute that WIS. STAT. § 938.34(4m)(a) has been satisfied in that he is delinquent for the commission of an act which if committed by an adult would be punishable by a sentence of six months or more. But because the juvenile court failed to use the exact words "danger to the public" and "in need of restrictive custodial treatment" from para. (b) in its ruling, Jonathan contends that the court failed to make sufficient findings on the record to warrant his being placed in a restrictive custodial setting and lacks the authority to change his placement. We disagree with each of these contentions.

¶6 First, Jonathan argues that WIS. STAT. § 938.34(4m)(b) requires the juvenile court to, on the record, find him to be "a danger to the public and to be in need of restrictive custodial treatment." The court did state on the record that Jonathan "belongs in corrections," but Jonathan argues that since the court did not utter the alleged obligatory words, the court's order should be reversed. We disagree. A court is not required to recite magic words to set forth its findings of fact. ***Monson v. Madison Family Inst.***, 162 Wis. 2d 212, 215 n.3, 470 N.W.2d

853 (1991). When a court does not explicitly make a finding necessary to support its legal conclusion, we will assume that a missing finding or conclusion was determined in favor of the order. ***State v. Wilks***, 117 Wis. 2d 495, 503, 345 N.W.2d 498 (Ct. App.), *aff'd*, 121 Wis. 2d 93, 358 N.W.2d 273 (1984); ***Michael A.P. v. Solsrud***, 178 Wis. 2d 137, 151, 502 N.W.2d 918 (Ct. App. 1993).

¶7 Second, Jonathan argues that his placement at Ethan Allen was not supported by sufficient findings on the record to show that the juvenile court acted reasonably in finding him dangerous. Again, we disagree. Jonathan was adjudicated delinquent for having committed a battery by striking a victim in the stomach approximately ten times. Subsequently, the court heard that while under supervision Jonathan harassed teachers at school, was suspended from school, was truant from school for a month, was placed on two seventy-two hour holds and violated his curfew. In addition, Jonathan's sister, who was acting as his foster parent, felt Jonathan was a danger to her.

¶8 Finally, Jonathan cites ***State v. Terry T.***, 2002 WI App 81, ¶¶15-16, 251 Wis. 2d 462, 643 N.W.2d 175, to argue that the juvenile court cannot place him at Ethan Allen because it is bound by the decision it made at the original dispositional hearing and cannot later reverse its findings. We disagree that ***Terry T.*** is applicable to this case. ***Terry T.*** involved a juvenile who was placed in the Serious Juvenile Offender Program even though he was not legally eligible because he was not old enough. ***Id.*** at ¶12. In this case, no one argues that Jonathan was not eligible to be placed at Ethan Allen. Also, the juvenile court did not change its original decision, but lifted the stay from its original order.

CONCLUSION

¶9 We affirm the juvenile court's order because on review, the findings on the record were sufficient for a reasonable court to conclude that Jonathan's behavior matched the statutory standard of dangerousness and need for restrictive custodial treatment as set forth in WIS. STAT. § 938.34(4m)(b).

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.