

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2011 IL App (4th) 101012-U

Filed 12/6/11

NO. 4-10-1012

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: TRAVON M., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 10JD14
TRAVON M.,)	
Respondent-Appellant.)	Honorable
)	Heidi N. Ladd,
)	Judge Presiding.

JUSTICE McCULLOUGH delivered the judgment of the court.
Justices Cook and Knecht concurred in the judgment.

ORDER

- ¶ 1 *Held:* The office of the State Appellate Defender's motion to withdraw as appellate counsel pursuant to *Anders v. California*, 386 U.S. 738, 18 L. Ed. 2d 493, 87 S. Ct. 1396 (1967), is granted where no colorable argument could be made that the trial court improperly sentenced delinquent to the Illinois Department of Juvenile Justice or made any other sentencing error.
- ¶ 2 On February 16, 2010, respondent, Travon M., pleaded guilty to theft of property having a value less than \$300 with a prior burglary adjudication (720 ILCS 5/16-1(a)(1)(A), (b)(2) (West 2008)). The trial court ordered respondent committed to the Illinois Department of Juvenile Justice (IDJJ) for an indeterminate term, to automatically terminate in three years or upon respondent attaining 21 years of age.
- ¶ 3 On April 5, 2010, respondent filed a motion to reconsider his sentence which the trial court denied. Respondent appealed, and this court remanded the cause for further proceedings consistent with Illinois Supreme Court Rule 604(d) (eff. July 1, 2006). *In re Travon M.*,

No. 4-10-0438 (September 3, 2010) (unpublished order under Supreme Court Rule 23).

¶ 4 On remand, defense counsel produced a proper Rule 604(d) certificate, filed on May 6, 2010. The trial court observed that "[f]or whatever reason, the Circuit Clerk did not tender that to the Appellate Court as part of the record *** the 604(d) certificate was on file in compliance with Supreme Court Rule 604(d)." Respondent renewed his motion for a notice of appeal to be filed and this appeal followed.

¶ 5 Respondent's court-appointed counsel, the office of the State Appellate Defender (OSAD), moves to withdraw pursuant to *Anders v. California*, 386 U.S. 738, 18 L. Ed. 2d 493, 87 S. Ct. 1396 (1967), contending defendant's appeal lacks any meritorious issues for review. The record shows OSAD served defendant with a copy of the motion. On its own motion, this court granted respondent through June 20, 2011, to file additional points and authorities. He filed none. In discharging our responsibilities, we have examined the record and have concluded, as did respondent's court-appointed counsel, no justiciable issues are presented for review. We grant counsel's motion and affirm the trial court's judgment.

¶ 6 Under *Anders*, a brief must accompany appellate counsel's request to withdraw outlining anything in the record arguably supporting the appeal. In the brief, counsel must (1) set out any irregularities in the trial process or other potential errors, which, although in his judgment are not a basis for appellate relief, might arguably be meritorious in the judgment of the client, another attorney, or the court; (2) if such issues are identified, counsel must sketch the argument in support of the issue and then discuss why he believes the arguments are frivolous; (3) conclude the case presents no viable grounds for appeal; and (4) include transcripts of the relevant hearings. *In re S.M.*, 314 Ill. App. 3d 682, 685, 732 N.E.2d 140, 143 (2000).

¶ 7 Appellate counsel maintains respondent's motion to reconsider sentence was without merit and no colorable argument can be made to the contrary. We agree.

¶ 8 Respondent's motion argued the trial court imposed an excessive sentence upon him. We will not alter a sentence upon review absent an abuse of the trial court's discretion. *People v. Perruquet*, 68 Ill. 2d 149, 153, 368 N.E.2d 882, 883 (1977). The trial court enjoys wide latitude in imposing sentence, and this court gives great deference and weight to the sentence the trial court thought appropriate. *People v. Goyer*, 265 Ill. App. 3d 160, 169, 638 N.E.2d 390, 396 (1994).

¶ 9 The disposition of a minor adjudicated delinquent rests within the sound discretion of the trial court and will not be disturbed on appeal absent an abuse of discretion. *In re Griffin*, 92 Ill. 2d 48, 54, 440 N.E.2d 852, 855 (1982). An indeterminate commitment to the IDJJ is an available disposition under the Juvenile Court Act of 1987 where the trial court finds that the minor's parents, guardian, or legal custodian are unfit, unable, or unwilling to care for, protect, train, or discipline the minor, or if commitment will serve the best interests of both the minor and the public. *Griffin*, 92 Ill. 2d at 54, 440 N.E.2d at 855; *In re S.L.C.*, 115 Ill. 2d 33, 45, 503 N.E.2d 228, 233 (1986); 705 ILCS 405/5-750(1), (3) (West 2010). "The court must state for the record why it decided to so commit the minor, and its choice of that disposition is subject to appellate scrutiny for abuse of discretion." *Griffin*, 92 Ill. 2d at 54, 440 N.E.2d at 855.

¶ 10 Here, the trial court followed each of these steps. The court specifically noted violations of the law and previous community-based sentences. The court's decision to commit respondent to the IDJJ for an indeterminate period was supported by the record. This record included respondent's history of prior contacts with the juvenile justice system beginning in

1999. He has one contact from 2004 (at age 10). The contacts increased greatly beginning in 2007, when respondent was 14 years old. Respondent had failed opportunities for station adjustments and probation, and had been out on parole from the IDJJ for 18 days when he was arrested for this crime. The trial court had discretion to impose the sentence rendered and did not abuse its discretion in sentencing respondent.

¶ 11 For the reasons stated, we grant OSAD's motion to withdraw as appellate counsel and affirm the trial court's judgment.

¶ 12 Affirmed.