

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).

2013 IL App (4th) 130077-U
NO. 4-13-0077
IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED
August 29, 2013
Carla Bender
4th District Appellate
Court, IL

In re: DEANTA P., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Sangamon County
v.)	No. 10JD82
DEANTA P.,)	
Respondent-Appellant.)	Honorable
)	Esteban F. Sanchez,
)	Judge Presiding.

JUSTICE POPE delivered the judgment of the court.
Justices Knecht and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not abuse its discretion in sentencing minor to the Illinois Department of Juvenile Justice.

¶ 2 In November 2010, the State charged respondent, Deanta P., born September 7, 1996, with aggravated robbery and theft under \$300, pursuant to the Juvenile Court Act of 1987 (Act), 705 ILCS 405/5-101 *et seq.* (West 2008). In February 2011, nine additional charges were filed, including three charges of burglary. In August 2011, respondent admitted he was delinquent based on the charges of theft and one of the burglaries and the State dismissed the nine remaining charges. A dispositional hearing was set for August 30, 2011. On August 16, 2011, a supplemental petition was filed alleging respondent committed a residential burglary on August 15, 2011. On November 29, 2011, respondent admitted to a reduced charge of burglary as a result of the offense committed on August 15, 2011. In June 2012, the trial court placed

respondent on probation on all three charges.

¶ 3 The State filed a petition to revoke probation in July 2012. A supplemental petition to revoke was filed in November 2012. In December 2012, the trial court found respondent had violated the terms of his probation. In January 2013, the court sentenced respondent to the Illinois Department of Juvenile Justice (DOJJ) for an indeterminate term not to exceed the length of sentence for an adult or respondent's twenty-first birthday. The court denied respondent's motion to reconsider on May 14, 2013.

¶ 4 Respondent appeals, arguing the trial court's sentence was an abuse of discretion. We disagree and affirm.

¶ 5 I. BACKGROUND

¶ 6 On November 19, 2010, the State filed a petition seeking to have respondent adjudicated delinquent, pursuant to the Act. 705 ILCS 405/5-101 *et seq.* (West 2008). The petition alleged respondent committed the offenses of aggravated robbery (720 ILCS 5/18-5(a) (West 2008)) and theft under \$300 (720 ILCS 5/16-1(a)(1)(A) (West 2008)) when he took a person's bicycle by force while indicating he had a dangerous weapon. On February 23, 2011, the State filed a supplemental petition alleging nine separate offenses, including three burglary counts, three theft over \$300 counts, one count of criminal damage to property under \$300, and two counts of criminal damage to property over \$300. The dates of these various offenses were August 11, 2010, August 20, 2010, and September 12, 2010.

¶ 7 On August 2, 2011, respondent admitted to a charge of misdemeanor theft and burglary and the State dismissed the nine remaining charges. The trial court set sentencing for August 30, 2011. However, on August 16, 2011, the State filed a second supplemental petition,

charging respondent with having committed a residential burglary on August 15, 2011, in violation of section 19-3(a) of the Criminal Code of 1961 (Criminal Code) (720 ILCS 5/19-3(a) (West 2010)). Respondent was ordered detained. In September 2011, the trial court entered an order allowing respondent to be released on electronic monitoring in the discretion of the probation department. On November 9, 2011, the court ordered a warrant issue for respondent. Respondent was ordered detained on November 14, 2011. On November 29, 2011, respondent admitted to a reduced charge of burglary for the offense committed on August 15, 2011. 720 ILCS 5/19-1(a) (West 2010). Sentencing was set for January 24, 2012. Respondent was released from detention.

¶ 8 On January 5, 2012, the State filed its third supplemental petition, alleging respondent committed a new offense of misdemeanor criminal damage to property on December 30, 2011. The trial court ordered respondent detained and set the matter over to January 24, 2012, the date respondent was scheduled to be sentenced. The sentencing hearing was continued from time to time and respondent remained in detention until May 15, 2012, when he was released to his grandparents on electronic monitoring. Counsel for the minor requested multiple continuances so he could arrange for a psychiatric evaluation of respondent.

¶ 9 On June 12, 2012, the trial court held a sentencing hearing. The court placed respondent on probation, which included the following conditions: respondent was to attend school, live with his grandparents, refrain from possessing dangerous weapons, complete drug and alcohol treatment, pay restitution of \$861, and perform 60 hours of community service. In addition, the court ordered six months of house arrest and electronic monitoring that would allow movement for school, church, and doctor appointments.

¶ 10 On July 2, 2012, a warrant issued for respondent, alleging he left his grandparents' home without permission. Respondent was arrested, admitted to Lincoln Prairie Behavioral Health Center for treatment and ordered returned to detention following discharge from treatment. On July 23, 2012, the State filed its fourth supplemental petition, charging respondent with damaging government-supported property on July 3, 2012, pursuant to section 21-4 of the Criminal Code (720 ILCS 5/21-4 (West 2010)), when he damaged the electronic monitoring bracelet.

¶ 11 The State filed a petition to revoke respondent's probation on July 23, 2012, based on the damage to the electronic monitoring bracelet. On August 1, 2012, respondent remained in detention by agreement. The trial court ordered respondent to cooperate with drug and alcohol assessments and provided for his release to inpatient treatment if deemed appropriate. Whenever respondent was discharged from treatment, he was to return to detention. At a September 4, 2012, status hearing, respondent was in inpatient treatment for substance abuse. The matter was continued from time to time so respondent could complete treatment.

¶ 12 On November 2, 2012, a warrant issued for respondent. According to a supplemental petition to revoke respondent's probation, he fled inpatient treatment on November 1, 2012, and tested positive for cannabis. On November 7, 2012, respondent appeared and the court detained him once again.

¶ 13 On December 18, 2012, respondent admitted he violated his probation by fleeing from the treatment program. A sentencing hearing was set for January 22, 2013. Following the sentencing hearing, the trial court sentenced respondent to DOJJ as noted above, and gave him credit for 288 days served in detention. On May 14, 2013, the court denied respondent's motion

to reconsider his sentence. This appeal followed.

¶ 14

II. ANALYSIS

¶ 15 Respondent argues his sentence was excessive, constituted an abuse of discretion, and was against the manifest weight of the evidence.

¶ 16 As the State points out, a reviewing court will not reverse a trial court's dispositional order unless the trial court's findings of fact are against the manifest weight of the evidence or the court abused its discretion by selecting an inappropriate disposition. *In re J.W.*, 386 Ill. App. 3d 847, 856, 898 N.E.2d 803, 811 (2008). Because respondent does not contest any factual determinations, the standard of review is abuse of discretion. A trial court abuses its discretion only where its ruling is arbitrary, fanciful, or where no reasonable person could take the view adopted by the court. *In re Gennell C.*, 2012 IL App (4th) 110021, ¶ 11, 968 N.E.2d 1258.

¶ 17 In the social history report filed with the trial court on May 9, 2012, respondent's extensive criminal contacts were summarized. The report reflected respondent lived with his elderly paternal grandparents, who were having difficulties with respondent's anger issues and his failure to obey a curfew. Despite referring respondent twice for therapy to two different programs, probation reported he was disinterested and did not benefit from services made available to him. The report also noted respondent had accumulated over 20 delinquency referrals since March 2010, with eight of those referrals occurring after the delinquency petition was filed with the court. Respondent was underachieving at school. His overall attendance was deficient and he had been suspended numerous times. During the last two years of school, respondent had accumulated nearly 50 days of suspension. Based on respondent's unwillingness

to engage in therapy, his poor behavior and performance in school, his continued engagement in delinquent acts while pending adjudication and disposition on his delinquency petition, probation recommended commitment to DOJJ.

¶ 18 Following the sentencing hearing on June 12, 2012, the trial court decided to give respondent "one more chance" and placed him on probation with the conditions as outlined above, including house arrest except for school, church, or doctor's appointments.

¶ 19 Despite very strict terms of probation, respondent was unable to comply for even three weeks. He violated the term of house arrest on July 2, 2012. Following his arrest and subsequent detention, he fled the inpatient treatment program and tested positive for cannabis.

¶ 20 At the January 22, 2013, sentencing hearing, respondent offered no evidence in mitigation. The trial court considered an updated social history report, which noted respondent was now 16 years of age. Screening tests administered by probation indicated respondent was at high risk to reoffend. Probation once again recommended respondent be committed to DOJJ.

¶ 21 After considering the social history report, respondent's poor performance on probation, and the need to protect the community from respondent's delinquent behavior, the trial court committed respondent to DOJJ. Here, many services were offered to respondent to keep him at home and in his community. Two different providers offered therapy services to respondent but he showed no interest. Inpatient treatment was provided at Lincoln Prairie Behavioral Health Center, again to no avail. Inpatient substance abuse treatment was also unsuccessful, as respondent fled from treatment and used cannabis while in the program. Respondent also demonstrated he would not obey the terms of home confinement when he damaged the electronic monitoring bracelet and left his grandparents' home without permission.

The trial court repeatedly tried less restrictive alternatives to commitment throughout respondent's probation, without success.

¶ 22 The trial court found reasonable efforts had been made to prevent or eliminate the need to remove the minor from his home. The record strongly supports this finding. The court was frank in its warnings that it was running out of alternatives for respondent. Respondent's willful and repeated violations of the order of probation left the court with no other choice but commitment to DOJJ. The court's order and oral comments reflect the court considered the appropriate statutory factors and found respondent's commitment was necessary to protect the public from respondent's criminal acts. The court clearly did not abuse its discretion in committing respondent to the DOJJ.

¶ 23 III. CONCLUSION

¶ 24 The trial court's decision to commit respondent to DOJJ is supported by the record and is clearly not an abuse of discretion.

¶ 25 Affirmed.