

¶ 1 *Held:* The circuit court's order committing the respondent minor to the custody of the Department of Juvenile Justice for an indeterminate term not to exceed three years was supported by the record and was not an abuse of discretion.

¶ 2 The respondent minor, G.T.W, was charged in a juvenile petition with aggravated battery (a class 3 felony) and mob action (a class 4 felony). In a partially negotiated plea, the aggravated

battery count was dismissed, and the minor admitted the mob action allegations in the petition. There was no agreement as to the appropriate sentence. Following a sentencing hearing, the court found the respondent to be delinquent and placed him in the custody of the Department of Juvenile Justice (DOJJ) for an indeterminate term not to exceed three years. The minor appeals from the sentence imposed in the dispositional order.

¶ 3

FACTS

¶ 4 The 16-year-old minor admitted the factual allegations in the juvenile petition. On June 29, 2010, at approximately 7 p.m., a Peoria police officer responded to a call reporting some juveniles walking on Interstate Highway I-74. When the officer arrived on the scene, he observed a minor subsequently identified as Kahlil B. lying in a drainage ditch several feet below the highway. The officer called for an ambulance as Kahlil appeared to be in extreme pain. Kahlil told the officer that he and his cousin, Brennan S., were chased by two young males through a wooded area and onto the highway. Kahlil also told the officer that the two youths caught him and one threw him over a ledge into the drainage ditch. Kahlil was transported to a nearby hospital. He suffered multiple fractures to his legs.

¶ 5 Brennan told the officer that he and Kahlil were walking to a shopping mall when the two youths stopped them, asked where they were from, and then began to chase them. During the chase, one of the individuals made hand movements as if he had a handgun in his waistband. Brennan told the officer that he and Kahlil were afraid and ran onto the highway in an effort to get away from the two. Brennan jumped over a ledge, down approximately 10 feet, onto some concrete blocks in the drainage ditch. One of the two, not G.T.W., caught up with Kahlil, punched and hit him in the head, and pushed him over the ledge into the drainage ditch. Brennan

told the officer that Kahlil missed the concrete blocks and fell approximately 30 feet all the way to the bottom of the ditch. The two assailants were quickly apprehended a short distance from the scene. The respondent was interviewed by the officer. He stated that he and Jared W. chased Kahlil and Brennan onto the highway, but he told the officer that Kahlil fell on his own and was not pushed.

¶ 6 The court accepted the minor's admission to the mob action count and found him delinquent. A sentencing report was prepared by a juvenile probation officer and submitted to the court. The report indicated that the respondent had several ordinance violations but no criminal record and no gang affiliations. He admitted using marijuana weekly for approximately a year prior to the incident. His school record indicated that he had received numerous school suspensions for insubordination and unexcused absences before being dropped from Peoria High School and referred to a truancy alternative program. The report also noted that he had close ties with his siblings and his mother, regularly attended church services and participated in church youth group, and was assessed as only a "moderate" youth offender risk. The report contained a recommendation that the respondent receive a sentence of 90 days' home detention and 3 years probation, undergo drug and alcohol assessment, complete anger management training, and participate in a counseling program.

¶ 7 At the sentencing hearing, the State presented victim impact statements from Kahlil and his mother, both attesting to the severe and likely permanent nature of Kahlil's injuries and the painful nature of his ongoing recovery. The respondent's counsel argued that he was not the one who inflicted the injuries upon Kahlil, that he had no criminal record, and that the juvenile probation report recommended probation and counseling.

¶ 8 The judge found otherwise, noting that the respondent was a full participant in chasing Kahlil and Brennan and that the respondent had failed to express remorse for his actions even after learning in court of the severe nature of Kahlil's injuries. The judge also stated that he had considered the juvenile probation department report, as well as the summary report of his conduct while in the juvenile detention center during the pendency of the proceedings.¹ The judge also observed that the respondent's mother appeared to have some difficulty controlling him. The judge announced that he considered it in the minor's best interest, and to protect the public, that he be committed to the DOJJ for an indeterminate time not to exceed three years. On appeal, the respondent maintains that the trial court erred in imposing a sentence which amounted to the maximum sentence for a class 4 felony without any regard for his rehabilitative potential.

¶ 9 ANALYSIS

¶ 10 On appeal, the respondent maintains that the disposition imposed amounted to an excessive sentence. He points out that, given the fact that he was not the primary perpetrator, had no prior criminal record, and the juvenile probation office recommended probation, the trial court's order that he be incarcerated in the DOJJ was excessive. He also maintains that the judge failed to properly consider the rehabilitative goal of the juvenile justice system in giving him what amounted to the most severe sentence possible.

¹ The summary report indicated that, overall, the respondent had been compliant and cooperative. However, the report also indicated one instance of insubordination, one incident of fighting with another minor, and one statement that he was going "to jump" another detainee.

¶ 11 The disposition of a minor adjudicated delinquent rests with the sound discretion of the trial court. A reviewing court will not disturb the trial court's ruling unless it is an abuse of discretion (*In re W.C.*, 261 Ill. App. 3d 508, 518 (1994)), or is against the manifest weight of the evidence (*In re A.D.*, 228 Ill. App. 3d 272, 276 (1992)). A trial court, when determining the appropriate disposition, may consider all helpful evidence, including oral and written reports. *In re Seth S.*, 396 Ill. App. 3d 260, 275 (2009). A trial court may order a juvenile offender to be committed to the DOJJ after considering the protection of the public and whether there is inadequate parental control. *In re A.D.*, 228 Ill. App. 3d at 276. In addition, when determining an appropriate disposition, the trial judge may consider any available alternative and need not defer to any particular recommendation. *In re W.C.*, 261 Ill. App. 3d at 519.

¶ 12 In the instant case, the trial court focused upon three factors in finding that it was in the best interest of the minor and the public that he be sentenced to the custody of the DOJJ for an indeterminate term not to exceed three years: (1) the serious nature of the offense; (2) the inability of the minor's mother to control his behavior; and (3) his apparent lack of remorse when apprised of the serious injuries inflicted upon Kahlil. We can also infer from the judge's mention of the summary report of the minor's conduct while in detention that he also considered that report as well.

¶ 13 We acknowledge that rehabilitation of a delinquent minor is a fundamental goal of the juvenile justice system, however; we also acknowledge that juvenile justice manifests an equal concern for protecting the public and holding juvenile offenders accountable for their actions. *In re A.G.*, 195 Ill. 2d 313, 318 (2001). In the instant matter, all the facts articulated by the judge in announcing his decision supported his determination that the best interest of the respondent *and*

the protection of the public warranted the sentence imposed. Although there is no dispute that the respondent did not push Kahlil off the ledge, there is also no question that his actions in chasing Kahlil and Bennan onto the expressway showed a serious disregard for both the two boys he was chasing and the public, *i.e.*, the motorists who were driving on the highway at the time. Likewise, the respondent's apparent lack of remorse, his incident of fighting while in detention, and his mother's apparent inability to control him could lead a rational person to conclude that he lacked the rehabilitative potential and demeanor to successfully complete probation, and, thus, he posed a continuing risk to the public. Accordingly, the weight of the evidence supports the disposition, and we hold that no abuse of discretion occurred when the circuit court committed the respondent to the custody of the DOJJ for an indeterminate term not to exceed three years.

¶ 14

CONCLUSION

¶ 15 For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

¶ 16 Affirmed.