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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-612

Filed: 15 December 2015

Mecklenburg County, No. 13 JB 417

IN THE MATTER OF: S.C.

Appeal by Juvenile from order entered 15 January 2015 by Judge Louis A. Trosch in District Court, Mecklenburg County. Heard in the Court of Appeals 3 December 2015.

Attorney General Roy Cooper, by Assistant Attorney General Deborah M. Greene, for the State.

Mary McCullers Reece for Juvenile–Appellant.

McGEE, Chief Judge.

Juvenile S.C.¹ appeals from an order revoking his probation in response to a violation and imposing commitment to a youth development center (“YDC”) for an indefinite period not to exceed his eighteenth birthday. We affirm.

The trial court adjudicated S.C. to be delinquent on 6 September 2013, and placed him on probation for nine months, after S.C. admitted to the offenses of unauthorized use of a motor vehicle and operating a motor vehicle without a license. Delinquency petitions were filed on 24 October 2013 charging S.C. with common law

¹ The juvenile’s initials are used throughout this opinion to protect his privacy.

robbery and attempted common law robbery. Upon S.C.'s admission to the lesser charge of larceny from the person, the State dismissed the attempt charge. The trial court imposed a Level 2 disposition on 5 March 2014 that included an extended twelve months of probation.

S.C. was charged by four petitions with assault by pointing a gun, carrying a concealed weapon, and felony and misdemeanor possession of stolen goods. He admitted to carrying a concealed weapon and to violating his probation on 31 July 2014 in exchange for the dismissal of the remaining charges. The trial court entered a Level 2 disposition on 25 August 2014 that included twelve months of probation, thirty days of electronic monitoring, and placement in a group home.

S.C.'s juvenile court counselor filed a motion for review on 25 November 2014, reporting that S.C. had violated the conditions of probation imposed in March 2014 by failing to "[c]ooperate with all professionals and treatment plans prescribed for the juvenile." Specifically, the motion alleged S.C.'s unsuccessful discharge from a substance abuse outpatient program on or about 21 October 2014.

The trial court held a hearing on 15 January 2015 and found that S.C. had willfully violated his probation as alleged in the 25 November 2014 motion for review. The trial court entered written findings in support of a Level 3 disposition and committed S.C. to a YDC for an indefinite period of at least six months but not to exceed his eighteenth birthday.

On appeal, S.C. claims that the trial court erred by “considering [his] unadjudicated acts on disposition without first determining whether the evidence of those acts was reliable, accurate, and competently obtained.” Specifically, the juvenile challenges the trial court’s consideration of the adult criminal charges, including a charge of robbery with a dangerous weapon, for which he had been arrested and held in jail for approximately three weeks in November 2014. Because S.C. asserts that the evidence about the adult criminal charges was “limited to the district attorney’s summary in court,” S.C. argues that the trial court erroneously relied on the prosecutor’s representations about the merits and status of the charges.

“On motion of the juvenile court counselor . . . , the court may review the progress of any juvenile on probation at any time during the period of probation or at the end of probation.” N.C. Gen. Stat. § 7B-2510(d) (2013). “If the court, after notice and a hearing, finds by the greater weight of the evidence that the juvenile has violated the conditions of probation set by the court, the court may . . . order a new disposition at the next higher level on the disposition chart in G.S. 7B-2508.” N.C. Gen. Stat. § 7B-2510(e). Once the trial court has determined that a juvenile has willfully violated his probation, “the validity of the trial court’s actual dispositional decision is reviewed on appeal using an abuse of discretion standard of review.” *In re Z.T.W.*, __ N.C. App. __, __, 767 S.E.2d 660, 664 (2014).

“[A] motion for review [is] a form of dispositional hearing with procedural

safeguards that differ significantly from those imposed on allegations that a juvenile committed a statutory or common law criminal offense. For example, the rules of evidence do not apply to probation revocation proceedings.” *In re D.S.B.*, __ N.C. App. __, __, 768 S.E.2d 922, 925 (2015) (second alteration in original) (citation and internal quotation marks omitted). Subsection 7B-2501(a) permits the trial court to “consider any evidence, including hearsay . . . , that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.” N.C. Gen. Stat. § 7B-2501(a) (2013). Further, the trial court may consider “unadjudicated acts allegedly committed by a juvenile, unrelated to that for which he stands petitioned,” provided the court “first determine[s] that such information is reliable and accurate and that it was competently obtained.” *In re Vinson*, 298 N.C. 640, 669, 260 S.E.2d 591, 608 (1979). The trial court “should have wide discretion” in making this determination. *Id.* “[A]n abuse of discretion is established only upon a showing that a court’s actions are manifestly unsupported by reason, or so arbitrary that it could not have been the result of a reasoned decision.” *In re Z.T.W.*, __ N.C. App. at __, 767 S.E.2d at 664–65 (alteration in original) (internal quotation marks omitted).

In the present case, the prosecutor conveyed the following information from the detective assigned to investigate S.C.’s adult charges:

[PROSECUTOR]:

I spoke with [the detective] yesterday, and the case was

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accepted at papering, is what I know, and the facts of the case are very strong and I can go into those here on the record if Your Honor would like.

Basically, it started as shoe deal gone wrong, and [S.C.] went with a friend to meet up with — I'm sorry — [S.C.] met up with a victim and the victim's friend, they were exchanging shoes. This had been arranged through Facebook, and [S.C.] went with a Davion Caldwell, who was wearing an orange sweatshirt identifiable. They agreed on a price, and then at that point [S.C.] produced a black handgun with a laser sight, and Davion Caldwell grabbed the shoes, both defendants ran, police were then called and reported to the scene —

[JUVENILE'S COUNSEL]:

Your Honor, I just object to further — they currently dismissed those charges, Your Honor. I don't know if they're coming back or that they are. But we're in juvenile court right now. Those are adult charges, and they'll be handled when they're supposed to be handled.

THE COURT:

Go ahead, Ms. Riley. Overruled.

[JUVENILE'S COUNSEL]:

The charges don't exist right now.

THE COURT:

Overruled. Go ahead, Ms. Riley.

[PROSECUTOR]:

Okay. Canine dog — canines were called out. Officers observed a Jeep drive out with a black male wearing an orange sweatshirt in the front passenger seat. The Jeep was registered to [S.C.'s] mother. She was driving the Jeep, and so the front passenger was the co-defendant, Davion Caldwell, and [S.C.] was in the back seat.

The victims identified Caldwell and said he was actually

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wearing one of the shoes — the pairs of shoes that he had just stolen from them, and identified him as the gunman. Another pair of stolen shoes were in the Jeep that they were all in immediately after this happened.

They went to [S.C.'s] house with search warrants for — to look for the gun, and [his] mother came out actually with a black handgun with a laser sight. She gave it to the officer and said, "My son doesn't need this." The recovered handgun is a Ruger 9 millimeter. It belongs to Brandon Hobert (sic) who had reported it stolen several weeks prior. It had been stolen from his car that had been parked down the street from where [S.C.] lives.

Additionally, contrary to S.C.'s argument on appeal, these averments were corroborated by other evidence adduced at disposition. The written report filed by the juvenile court counselor listed the criminal charges for which S.C. was arrested and noted that they "were temporarily dismissed" but "are to be picked up by the Grand Jury at any time." S.C.'s first witness, Martin A. Chambliss, who served as the operations director of the medical facility that included the substance abuse outpatient program in which S.C. had been placed, testified that S.C. had been arrested "November the 1st" and "had been [in] jail for ten days." S.C.'s mother then testified, acknowledging his "adult charges" and his release from jail on 21 November. When asked by the prosecutor whether it was "accurate when [she] said that [S.C.'s mother] gave the police officers the stolen gun that was in [her] home," S.C.'s mother replied: "I gave them the gun that was in my home, but I did not say anything when I gave them the gun. I just handed it to them." She further acknowledged that the

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gun did not belong to her or to anyone who lived in her home. Accordingly, we conclude that the testimonial evidence from the detective and S.C.'s mother regarding the juvenile's unadjudicated adult criminal charges was reliable, accurate, and competently obtained, and we overrule the juvenile's issue on appeal.

AFFIRMED.

Judges HUNTER, JR. and DILLON concur.

Report per Rule 30(e).