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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-565

Filed 21 November 2023

Lincoln County, No. 23JB6

IN RE: T.L.B.

Appeal by juvenile-defendant from order entered 20 February 2023 by Judge Micah J. Sanderson in Lincoln County District Court. Heard in the Court of Appeals 1 November 2023.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender David W. Andrews, for juvenile-appellant.

Attorney General Joshua H. Stein, by Assistant Attorney General Janelle E. Varley, for the State.

FLOOD, Judge.

Juvenile-Defendant, T.L.B. (“Timothy”),¹ appeals from the trial court’s 20 February 2023 Disposition Order (the “Order”), arguing the trial court erred by misinforming Timothy of his rights under N.C. Gen. Stat. § 7B-2407 (2021) and failing to include written findings demonstrating it considered the factors listed in N.C. Gen. Stat. § 7B-2501(c) (2021). For the reasons that follow, we affirm the Order.

¹ Pseudonym used to protect the identity of the juvenile and for ease of reading. *See* N.C.R. App. P. 42(b).

I. Factual and Procedural Background

On 10 January 2023, the Chief Court Counselor for the Lincoln County District Court filed two Juvenile Petitions (the “Petitions”) against thirteen-year-old Timothy, alleging he was a juvenile delinquent. The Petitions allege Timothy took a picture on his cell phone of a male classmate, who was sitting on the toilet, by “secretly peeping” into the bathroom of their middle school in violation N.C. Gen. Stat. § 14-202(c) (2021). The Petitions further allege Timothy disseminated the picture of the classmate to two other male classmates in violation of N.C. Gen. Stat. § 14-202(h) (2021). The picture was not graphic, but it was taken and distributed without the subject’s consent.

On 30 January 2023, the trial court held a hearing on the Petitions. At the hearing, Timothy admitted to the allegations contained in the Petitions. The trial court proceeded to read Timothy the questions contained in the Transcript of Admission by Juvenile form (the “TOA”) to determine whether Timothy’s admission was knowing and voluntary. During this inquiry, the trial court advised Timothy he could receive a Level 1 disposition if he was adjudged guilty of the allegations. Following the trial court’s inquiry, Timothy formally admitted guilt to the allegations contained in the Petitions.

At the close of the hearing, Judge Sanderson found Timothy had a “low” juvenile delinquency history level and ordered a Level 1 disposition. The Order was signed and dated by Judge Sanderson on 30 January 2023. Timothy filed notice of

appeal on 9 February 2023. The Order was filed on 20 February 2023.

II. Jurisdiction

We have jurisdiction to hear an appeal of a delinquency matter that is filed “within ten days after entry of the order.” N.C. Gen. Stat. § 7B-2602 (2021). Timothy filed notice of appeal on 9 February 2023. The Order was signed by Judge Sanderson on 20 January 2023, but it was not filed with the clerk of court until 20 February 2023. Timothy’s notice of appeal, therefore, was premature. *See In re E.A.*, 267 N.C. App. 396, 397, 833 S.E.2d 630, 631 (2019) (a notice of appeal is premature if it is filed prior to the entry of a judgment, which means the judgment has been “reduced to writing, signed by the judge, and *filed with the clerk of court.*” (emphasis added)).

To cure this procedural defect, Timothy has filed a Petition for Writ of Certiorari pursuant to North Carolina Rule of Appellate Procedure 21(a)(1), which we elect to grant in our discretion. *See In re R.A.F.*, 384 N.C. 505, 507, 886 S.E.2d 159, 161 (2023) (“[T]he Court of Appeals maintains broad jurisdiction to issue writs . . .”); *see also* N.C.R. App. P. 21(a)(1).

III. Analysis

This Court reviews a trial court’s “alleged statutory errors *de novo.*” *In re K.C.*, 226 N.C. App. 452, 462, 742 S.E.2d 239, 246 (2013). “Under a *de novo* review, [this] [C]ourt considers the matter anew and freely substitutes its own judgment for that of the lower tribunal.” *State v. Biber*, 365 N.C. 162, 168, 712 S.E.2d 874, 878 (2011) (citation and internal quotation marks omitted).

A. Admission of Guilt

Timothy's first assignment of error is that his admission of guilt was not "voluntary, intelligent, and knowing" because the trial court (1) failed to adequately advise him that he had a constitutional right to confront witnesses against him, and (2) improperly advised him that the highest disposition level he could receive was a Level 1 when he actually faced a Level 2 disposition.

"We have long considered that the acceptance of an admission by a juvenile is tantamount to the acceptance of a guilty plea by an adult in a criminal case." *In re J.G.*, 280 N.C. App. 321, 324, 867 S.E.2d 351, 353 (2021). The Record before us, therefore, "must . . . affirmatively show on its face that the admission entered was knowingly and voluntarily." *Id.* at 324, 867 S.E.2d at 353. A trial court may accept a juvenile's admission only after personally:

- (1) Informing the juvenile that the juvenile has a right to remain silent and that any statement the juvenile makes may be used against the juvenile;
- (2) Determining that the juvenile understands the nature of the charge;
- (3) Informing the juvenile that the juvenile has the right to deny the allegations;
- (4) *Informing the juvenile that by the juvenile's admissions the juvenile waives the juvenile's right to be confronted by the witnesses against the juvenile.*
- (5) Determining that the juvenile is satisfied with the juvenile's representation; and

(6) Informing the juvenile of the most restrictive disposition on the charge.

N.C. Gen. Stat. § 7B-2407(a)(1)–(6) (2021) (emphasis added). Informing the juvenile of “all of these six specific steps [is] paramount and necessary in accepting a juvenile’s admission as to guilt during an adjudicatory hearing.” *In re T.E.F.*, 359 N.C. 570, 574, 614 S.E.2d 296, 298 (2005).

We address Timothy’s argument that the trial court failed to adequately advise him of Sub-Sections (4) and (6) in turn.

1. Confrontation Clause

First, Timothy argues the trial court failed to adequately advise him that he had the right to confront witnesses against him because informing Timothy that he had “the right to ask witnesses questions” is not the same as the right to confrontation. This Court has squarely addressed this issue and concluded that informing a juvenile of his right to ask witnesses questions was sufficient to comply with N.C. Gen. Stat. § 2407(a)(4). *See In re W.M.C.M.*, 277 N.C. App. 66, 72–73, 857 S.E.2d 878–79 (2021). Timothy argues, however, we should not follow the holding in *In re W.M.C.M.* because it is in direct conflict with our Supreme Court’s decision in *In re T.E.F.* We disagree.

In *In re T.E.F.*, our Supreme Court overturned a disposition order where the trial court asked the juvenile only five of the six questions listed in Section 7B-7407(a). *Id.* at 575, 614 S.E.2d at 299. The Supreme Court held all six specific steps

enumerated in Section 7B-7407(a) were “paramount and necessary in accepting a juvenile’s admission as to guilt during an adjudicatory hearing.” *Id.* at 574, 614 S.E.2d at 298. In so holding, the Court reasoned that the language in Section 7B-2407(a) showed the legislature’s intent that the trial court is required to list all six rights to ensure the “admission is a product of the juvenile’s informed choice.” *Id.* at 573, 614 S.E.2d at 298. What our Supreme Court did not hold in *In re T.E.F.*, however, is that a verbatim reading of the statute is required; instead, the Court concluded that before a trial court may accept “a juvenile’s admission of guilt and waiver of [their] rights,” it is required to “list[] the six steps specified in [Section] 7B-2407(a).” *Id.* at 574, 614 S.E.2d at 299. It is also relevant that our Supreme Court noted “that the Administrative Office of the Courts [(“AOC”)] has available a standard form incorporating these statutory areas of inquiry” for the trial courts to follow. *Id.* at 576, 614 S.E.2d at 299.

In *In re W.M.C.M.*, this Court held a juvenile was fully informed of his rights when the trial court asked him if he understood “he had the right to ‘ask witnesses questions during a hearing.’” 277 N.C. App. at 72–73, 857 S.E.2d at 878–79. This Court further held the statute does not “require the exact statutory language be used during the colloquy, but rather requires the [trial] court to orally and clearly inform the juvenile of his rights.” *Id.* at 73, 857 S.E.2d at 879. This is not in direct conflict with *In re T.E.F.* because the holding from *In re W.M.C.M.* also requires the trial court inform a juvenile of all six of the enumerated rights.

Additionally, this Court noted that because the trial court relied on the TOA provided by the AOC when advising the juvenile of his rights, reversing the juvenile's disposition order would require the Court to find the officially adopted TOA is "an insufficient guide for the trial courts to use and it fails to comply with the statute." *In re W.M.C.M.*, 277 N.C. App. at 73, 857 S.E.2d at 879. This reasoning is in-line with our Supreme Court's clarification that a trial court need only use the available AOC forms to comply with the statute. *See In re T.E.F.*, 359 N.C. at 576, 614 S.E.2d at 299.

We therefore hold *In re W.M.C.M.* is not in conflict with *In re T.E.F.* because both holdings require the juvenile to be informed of all six of the rights enumerated by the statute. Had the Supreme Court intended for a verbatim reading by the trial court of Section 7B-2407(a), it would have clearly stated so.

Turning to the case *sub judice*, the trial court read Timothy verbatim each question listed in the AOC-J-410 TOA, including whether Timothy understood he had a "right to ask witnesses questions" at a hearing, should the case be heard by a judge. In keeping with our prior precedent, we conclude this was sufficient to show the trial court orally and clearly informed Timothy of all six of his mandatory rights. *See W.M.C.M.*, 277 N.C. App. at 73, 857 S.E.2d at 879; *see also* N.C. Gen. Stat. § 7B-2407(a). Aligned with the Supreme Court's decision in *In re T.E.F.* and our decision in *In re W.M.C.M.*, we decline to conclude here that the trial court erred when it read verbatim from the TOA provided by the AOC.

We therefore conclude the trial court adequately advised Timothy of his right to confront witnesses against him by informing him he had “the right to ask witnesses questions.” *See In re T.E.F.*, 359 N.C. at 576, 614 S.E.2d at 299; *see also W.M.C.M.*, 277 N.C. App. at 73, 857 S.E.2d at 879.

2. Disposition Level

Next, Timothy argues the trial court misinformed him that the highest disposition he could face was a Level 1, when he actually could have been given up to a Level 2 disposition. We disagree.

“[W]hen a trial court *plans* to impose a disposition level higher than that set out in the TOA, the juvenile must be given a chance to withdraw his plea and be granted a continuance.” *In re W.H.*, 166 N.C. App. 643, 647, 603 S.E.2d 356, 359 (2004) (emphasis added). When a juvenile’s admission is based on the belief that said juvenile will receive the disposition stated in the TOA, their admission is knowing and voluntary. *See id.* at 647, 603 S.E.2d at 359 (holding an admission based on the belief that the most restrictive disposition the juvenile would receive was a Level 2 was not knowing and voluntary when the trial court decided to impose a Level 3 disposition without giving the juvenile any notice or opportunity to withdraw his admission). It necessarily flows from *In re W.H.*, therefore, that a trial court does not err when it advises a juvenile of a specific disposition level it could receive, then orders the juvenile to the advised-of disposition level, even though it could have ordered a higher level. This is necessarily so because it cannot be said the admission

was not knowing or voluntary when a juvenile receives the disposition level of which they were advised. *See id.* at 647, 603 S.E.2d at 359.

In this case, Timothy entered an admission of guilt to disseminating a photo obtained by a peeping violation pursuant to N.C. Gen. Stat. § 14-202(h)—a class H felony. The trial court found Timothy was a “low” delinquency history level. Our juvenile code considers class H felonies to be “serious offenses,” and a juvenile with a low delinquency history who commits a serious offense could be given a Level 1 or 2 disposition. N.C. Gen. Stat. § 7B-2508 (2021). The trial court, however, advised Timothy that the most serious disposition he could receive for his charge was “a Level 1 disposition, which includes, among other things, detention for up to . . . five-24-hour periods, placement in a wilderness program, or placement in the custody of the Lincoln County Department Social Services.” In the Order, Judge Sanderson, as he advised he would, entered a Level 1 disposition for Timothy. The Record, therefore, “affirmatively show[s]” the trial court complied with N.C. Gen. Stat. § 7B-2407(c) by advising Timothy of, and ordering him to, a Level 1 disposition. *See In re J.G.*, 280 N.C. App. at 324, 867 S.E.2d at 353.

We decline to conclude Timothy’s admission was not knowing and voluntary when he was given the disposition level the trial court advised he could receive. *See In re W.H.*, 166 N.C. App. at 647, 603 S.E.2d at 359. Accordingly, Timothy was properly advised of his right to confront witnesses against him and the highest disposition level he would receive. His admission of guilt, therefore, was knowing

and voluntary. *See In re J.G.*, 280 N.C. App. at 324, 867 S.E.2d at 353.

B. Disposition Order

Timothy argues the trial court erred by failing to include written findings of fact demonstrating it considered the factors listed in N.C. Gen. Stat. § 7B-2501(c) (2021).

“The disposition[] order shall be in writing and shall contain appropriate findings of fact and conclusions of law.” N.C. Gen. Stat. § 7B-2512(a) (2021). Specifically:

In choosing among statutorily permissible dispositions, the court shall select the most appropriate disposition in both terms of kind and duration for the delinquent juvenile. Within the guidelines set forth in [N.C. Gen. Stat. §] 7B-2508, the court shall select a disposition that is designed to protect the public and to meet the needs and best interests of the juvenile based upon:

- (1) The seriousness of the offense;
- (2) The need to hold the juvenile accountable;
- (3) The importance of protecting the public safety;
- (4) The degree of culpability indicated by the circumstances of the particular case; and
- (5) The rehabilitative and treatment needs of the juvenile indicated by a risk and needs assessment.

N.C. Gen. Stat. § 7B-2501(c) (2021). The trial court is required to consider *all* the factors and make written findings of fact demonstrating such consideration. *See In re V.M.*, 211 N.C. 389, 391–92, 712 S.E.2d 213, 215–16 (2011) (reversing the trial court’s disposition order for failure to properly consider *all* of the factors required).

Here, the trial court did not make written findings addressing all five factors

in the Order, and therefore erred. Timothy concedes this issue is moot because his probation period expired in July 2023. Timothy argues, however, this Court should review the issue on the merits because the alleged errors in the Order fall under the (1) “capable of repetition yet evading review” and (2) public interest exceptions to the mootness rule.

“A case is ‘moot’ when a determination is sought on a matter which, when rendered, cannot have any practical effect on the existing controversy.” *Anderson v. N.C. State Bd. of Elections*, 248 N.C. App. 1, 4–5, 788 S.E.2d 179, 183 (2016) (citation and internal quotation marks omitted). The mootness doctrine “represents a form of judicial restraint” that prevents a reviewing court from determining matters that are “purely speculative.” *State v. Daw*, 277 N.C. App. 240, 244, 860 S.E.2d 1, 6 (2021). There are, however, two exceptions to the mootness doctrine: the (1) “capable of repetition, yet evading review[] exception[,]” and (2) “public interest exception.” *Id.* at 244, 860 S.E.2d at 6.

1. Capable of Repetition Yet Evading Review

First, Timothy argues the Order in this case is capable of repetition because it is not “unreasonable to think” he may face the same issues involving insufficient findings of fact in a future disposition order should he face future, additional adjudications in juvenile court. We disagree.

The capable of repetition, yet evading review exception applies when: “(1) the challenged action [is] in its duration too short to be fully litigated prior to its cessation

or expiration, and (2) there [is] a reasonable expectation that the same complaining party would be subjected to the same action again.” *In re Z.T.W.*, 238 N.C. App. 365, 373, 767 S.E.2d 660, 666 (2014) (citation omitted).

Here, there is no indication Timothy will be subjected to the same action again. He is only thirteen years old and accepted guilt at the hearing. Timothy sent an apology to the subject of the picture, did not have a history of delinquency or otherwise troublesome behavior, and expressed regret for his actions. Further, the investigating Resource Officer testified that Timothy did not “give [him] any problems” during his investigation.

There is, therefore, no “reasonable expectation” Timothy will be subject to this same action again. *See In re Z.T.W.*, 238 N.C. App. at 373, 767 S.E.2d at 666.

2. Public Interest Exception

Second, Timothy argues this case falls under the “public interest” exception because all juveniles who are adjudicated delinquent are subject to disposition orders. Timothy further argues this Court should review this issue on the merits to hold the trial courts accountable. We disagree.

“Under the public interest exception to mootness, an appellate court may consider a case, even if technically moot, if it involves a matter of public interest, is of general importance, and deserves prompt resolution.” *Daw*, 277 N.C. App. at 244, 860 S.E.2d at 6 (citation and internal quotation marks omitted). This exception is most commonly applied where otherwise moot cases have “clear and far-reaching

significance, for members of the public beyond just the parties in the immediate case.” *Id.* at 245, 860 S.E.2d at 6–7 (citation and internal quotation marks omitted). This exception, however, “is a very limited exception that our appellate courts have applied only in those cases involving clear and significant issues of public interest.” *In re J.M.*, COA23-215, 2023 WL 6395431, at *2 (N.C. Ct. App. Oct. 3, 2023). “[S]elf-serving contentions . . . cannot defeat the principle of judicial restraint that sustains our State’s mootness doctrine.” *Id.* at *2.

In this case, the interests involved are solely confined to those of Timothy. There are no “significant issues of public interest.” *See id.* at * 2. The statutory requirements concerning juvenile disposition orders are clear, and this Court has upheld these standards on multiple occasions. *See In re N.M.*, COA23-100, 2023 WL 6066497, at * 3 (N.C. Ct. App. Sept. 19, 2023) (holding the “[other findings] section must be filled with findings made by the trial court regarding the five factors required by the statute, otherwise it is reversible error”); *see also In re J.J.*, 216 N.C. App. 366, 375, 717 S.E.2d 59, 65 (2011) (finding error when the trial court did not make any written findings of fact); *In re V.M.*, 211 N.C. App. 389, 391–92, 712 S.E.2d 213, 215 (2011) (reversing the trial court’s disposition order for failure to properly consider all of the factors required); *In re I.W.P.*, 259 N.C. App. 254, 261, 815 S.E.2d 696, 702 (2018) (“The plain language of Section 7B-2501(c) compels us to find that a trial court must consider each of the five factors in crafting an appropriate disposition.”). Because of these prior decisions, rendering a decision on the merits of this case would

not further the law or have any “far-reaching significance.” *See In re J.M.* at *2. Thus, this exception does not apply here.

Accordingly, we decline to review this issue on the merits because it is moot without exception. *See Daw*, 277 N.C. App. at 244, 860 S.E.2d at 6.

IV. Conclusion

We conclude the trial court properly complied with N.C. Gen. Stat § 24707(a) when advising Timothy of his rights, and we decline to review the Disposition Order as it is moot.

AFFIRMED.

Judges ARROWOOD and CARPENTER concur.

Report per Rule 30(e).