

Children's Law Center of Indiana



Delinquency

03/10/2009

In **R.J.G. v. State**, 902 N.E.2d 804 (Ind. 2009), the Court affirmed the provision of the juvenile court's dispositional decree ordering probation following the juvenile's release from the Department of Correction (DOC). In May 2007, after selling marijuana to a friend, the 15-year-old juvenile pointed a gun at his customer. The gun accidentally discharged severely injuring the customer. A search of the juvenile's bedroom uncovered drug paraphernalia and a safe containing two guns, cash, a scale, and thirty-four grams of marijuana. The State filed a delinquency petition, alleging that the juvenile committed acts that would, if committed by an adult, constitute class C felony criminal recklessness, class D felony pointing a firearm, class D felony dealing in marijuana, and class A misdemeanor marijuana possession. The juvenile pleaded guilty to criminal recklessness and marijuana possession in exchange for dismissal of the other charges. The juvenile court committed the juvenile to DOC, Indiana Boys School, until the age of eighteen, followed by supervised probation until the age of twenty-one, and ordered that the juvenile participate in individual counseling, that, after his release, the juvenile and his family participate in the Community Transition Program, and that the juvenile complete 200 hours of community service. The juvenile appealed the dispositional order, arguing that the juvenile court lacked jurisdiction to order both commitment to DOC and probation in the same order, and raising other issues that were moot at the time of the issuance of this decision. The Court of Appeals, at 888 N.E.2d 213, 216 (Ind. Ct. App. 2008), had affirmed the juvenile court, holding that the juvenile court had jurisdiction to order probation following discharge from DOC. Because the holding at 888 N.E.2d 213, conflicted with the holding in J.J.M. v. State, 779 N.E.2d 602, 607 (Ind. Ct. App. 2002), the Indiana Supreme Court granted transfer (898 N.E.2d 1222 (Ind. 2008)) to resolve the conflict. Ind. Appellate Rule 57(H)(1).

The Court held that a juvenile court may order a commitment to the DOC and, in the same order, provide for probation following release from the DOC. R.J.G., 902 N.E.2d 804. The Court reviewed statutes pertaining to juvenile court dispositional decrees including IC 31-37-19-5 and IC 31-37-19-6, which provide the menu of dispositional options. The Court noted that (1) Section 5 provides that the juvenile court may, "in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees;" (2) the list that follows in Section 5 includes probation, outpatient treatment, surrender of driver's license, restitution, emancipation, attendance at an alcohol and drug program, community service, and, for certain acts, "wardship" of DOC for a fixed period; and (3) Section 6 allows the juvenile court to "enter any dispositional decree specified in section 5 of this chapter" and authorizes awarding "wardship" to a juvenile detention facility, to DOC for housing in a correctional facility for children, or to another person or facility. Id. at 806. According to the Court, relying on J.J.M. v. State, 779 N.E.2d 602 (Ind. Ct. App. 2002), although the juvenile acknowledged that the plain language of Sections 5 and 6 clearly permits a dispositional order providing for both commitment to the DOC and subsequent probation, he contended that these options are available

only when a court has jurisdiction over the juvenile under IC 31-30-2-1, which he contends the juvenile court lost when it ordered the juvenile committed to DOC. The Court opined that J.J.M. at 607, held that, upon ordering guardianship of the child to DOC, the juvenile court was divested of jurisdiction and could not order probation, but held that J.J.M. was incorrect on this point. R.J.G. at 806. The Court explained that (1) Sections 5 and 6 allow a juvenile court to order “at least one,” potentially multiple dispositions, and that nothing prevents these from being accomplished in the same order; (2) there is no jurisdictional bar to ordering more than one disposition in the same order; and (3) the juvenile court has jurisdiction over the person and the subject matter at the time it makes its dispositional decree and therefore has jurisdiction at that time to order both probation and commitment to the DOC. Id. at 806-07. Also, contrary to the juvenile’s contention, the Court found that entry of multiple dispositions in the initial order was not inconsistent with reinstatement of jurisdiction for additional dispositions upon release from DOC; providing the juvenile court with the option to reinstate jurisdiction does not foreclose an initial order including probation, it merely preserves flexibility in crafting a dispositional order and allows deferring decision as to the need for additional dispositions. Id. at 807.