

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
HURON COUNTY

In re C.H.

Court of Appeals No. H-11-020

Trial Court No. JUV 2011 00286

DECISION AND JUDGMENT

Decided: August 10, 2012

* * * * *

Timothy Young, Ohio Public Defender, and Sheryl A. Trzaska,
Assistant State Public Defender, for appellant.

Russell Leffler, Huron County Prosecuting Attorney, and
Dina Shenker, Assistant Prosecuting Attorney, for appellee.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a judgment of the Huron County Court of Common Pleas, Juvenile Division, that adjudicated appellant delinquent in connection with one charge of escape in violation of R.C. 2921.34. For the reasons set forth below, the judgment of the trial court is affirmed.

{¶ 2} The following undisputed facts are relevant to the issues raised on appeal. On August 3, 2011, a complaint was filed in Huron County Juvenile Court alleging that appellant escaped from his aunt's house while he was on electronically monitored house arrest with 24-hour adult supervision. Appellant was charged with violating R.C. 2921.34(A)(1)(C)(2)(b), escape, and R.C. 2152.02(F), delinquency. On August 2, 2011, appellant appeared in court and denied the allegations of the complaint. However, on September 14, 2011, after several pretrial hearings, appellant admitted to the escape charge. After accepting appellant's admission, the trial court adjudicated him a delinquent child. Proceeding directly to disposition, the trial court ordered that appellant be placed in the legal custody of the Department of Youth Services for a minimum of six months until a maximum of appellant's 21st birthday. Further, the trial court ordered that "said child or his mother" pay court costs of \$416 within 30 days and a fine of \$750 within 30 days, with \$745 of the fine suspended. As for the \$416 in costs, \$244 was assessed for appellant's transportation from Erie County Detention to the Huron County Juvenile Court for hearings in this matter on September 1, 7, 14 and 21, 2011. It is from this judgment that appellant appeals.

{¶ 3} Appellant sets forth the following assignments of error:

First Assignment of Error

The trial court erred when it failed to consider community service in lieu of financial sanctions before ordering [C.H.] to pay court costs and fines, in violation of R.C. 2152.20(D). (T.p. 16); (A-2).

Second Assignment of Error

The trial court erred when it assessed Sheriff's Fees for transportation as court costs against [C.H.], in violation of R.C. 2151.54. (T.p. 16); (A-2).

Third Assignment of Error

[C.H.] was denied the effective assistance of counsel, in violation of the Sixth and Fourteenth Amendment to the United States Constitution; Section 10, Article I of the Ohio Constitution. (T.p. 16); (A-2).

{¶ 4} In support of his first assignment of error, appellant asserts that, because he is indigent, the trial court was required by statute to consider community service in lieu of financial sanctions as part of disposition.

{¶ 5} R.C. 2152.20(D) directs a juvenile court to consider whether to order community service in lieu of financial sanctions if a child is indigent. It appears to this court that the trial court considered all options before disposition. The record reflects that at disposition, after hearing from counsel, the state, appellant's probation officer, appellant and his mother, the trial court advised appellant as follows:

* * * you've had a lot of opportunities over the past few years here to really succeed, take advantage of the many services that have been offered to you and your family and then thrive, but * * * unfortunately, you haven't taken full advantage of those opportunities and many different

things have been tried, IFAST therapy in your home, out of home placement * * *.

The trial court further stated:

[B]ut still you're committing increasingly serious offenses, including the most recent one, which is a felony of the third degree level offense if done by an adult. So I really do feel compelled to commit you to the Department of Youth Services here today. It has been sort of a last resort for you, but your history has shown that despite the increasing efforts of the community to keep you here, keep you and others safe, those haven't been successful.

{¶ 6} Based on the foregoing, we cannot say that the trial court failed to consider all options for appellant, including community service. Clearly the trial court, being quite familiar with appellant's history as well as his current circumstances, weighed the options and was convinced that commitment to DYS was required. Having made that determination, community service was not an option for appellant's disposition. Accordingly, appellant's first assignment of error is not well-taken.

{¶ 7} In support of his second assignment of error, appellant asserts that, based on R.C. 2151.54, the trial court erred by assessing sheriff's fees for transportation from Erie County Detention to the Huron County Juvenile Court for several hearings as court costs in this matter.

{¶ 8} R.C. 2151.54 states in relevant part: “The expense of transportation of children to places to which they have been *committed* * * * shall be paid from the county treasury upon specifically itemized vouchers certified to by the judge.” (Emphasis added.) Further, R.C. 2151.011(B)(10) states that “[c]ommit means to vest custody as ordered by the court.”

{¶ 9} In the case before us, appellant was transported several times from the detention center to juvenile court and back again for hearings as explained above. In those instances, appellant was not being transported to a place to which he had been committed as contemplated by R.C. 2151.54 and the cost of said transportation was not an expense that would come out of the county treasury and so was properly charged to appellant and his mother as court costs. Pursuant to the September 20, 2011 judgment, appellant was “placed in the legal custody of the Department of Youth Services * * *.” Because the trial court thereby “vested custody” in DYS as defined by R.C. 2151.011(B)(10), appellant’s transportation to DYS would properly be paid from the county treasury pursuant to R.C. 2151.54. Accordingly, appellant’s second assignment of error is not well-taken.

{¶ 10} In support of his third assignment of error, appellant asserts that his trial counsel was ineffective for failing to object when the court ordered him to pay fines and court costs without first considering community service. In light of our findings under appellant’s first and second assignments of error that the trial court did not fail to consider community service and did not err by ordering the payment of a fine and court

costs for transportation to and from his hearings, appellant's third assignment of error is not well-taken.

{¶ 11} On consideration whereof, the judgment of the Huron County Court of Common Pleas, Juvenile Division, is affirmed. Costs of this appeal are assessed to appellant pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Arlene Singer, P.J.

JUDGE

Thomas J. Osowik, J.

JUDGE

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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