

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1022**

In re the Matter of the Welfare of:
C. A. R., Child.

**Filed March 2, 2020
Affirmed
Rodenberg, Judge**

Fillmore County District Court
File No. 23-JV-19-123

Cathryn Middlebrook, Chief Appellate Public Defender, Leslie J. Rosenberg, St. Paul, Minnesota (for appellant C.A.R.)

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Brett Corson, Fillmore County Attorney, Melissa Hammell, Assistant County Attorney, Preston, Minnesota (for respondent State of Minnesota)

Considered and decided by Rodenberg, Presiding Judge; Jesson, Judge; and Smith, Tracy M., Judge.

S Y L L A B U S

A district court may exercise its broad discretion to adjudicate a child as delinquent in a felony-level delinquency case while continuing a stay of adjudication in a prior gross-misdemeanor delinquency case and is not required to adjudicate only the least-severe delinquency offense.

O P I N I O N

RODENBERG, Judge

In this appeal from an order adjudicating appellant C.A.R. delinquent, C.A.R. argues that the district court abused its discretion when it adjudicated him delinquent in a

felony-level delinquency case while continuing a stay of adjudication in C.A.R.'s prior gross-misdemeanor case. Discerning no abuse of the district court's discretion, we affirm.

FACTS

On September 28, 2018, C.A.R. pleaded guilty to a gross-misdemeanor fifth-degree controlled-substance-possession delinquency offense. At disposition, C.A.R. informed the district court that he aspired to join the military and would therefore benefit from adjudication being withheld. C.A.R. argued that he would be successful on probation. The district court withheld adjudication and placed C.A.R. on probation for six months.

On October 11, 2018, approximately two weeks after the disposition of C.A.R.'s gross-misdemeanor offense, C.A.R. sold five tablets of LSD to a confidential informant. The state charged C.A.R. by delinquency petition with one count of felony fourth-degree sale of a controlled substance. The state also charged a separate count of felony third-degree aiding and abetting the sale of a controlled substance from another incident.

As part of a plea agreement, C.A.R. pleaded guilty to an amended charge of fifth-degree possession of a controlled substance from the October 11 sale in exchange for dismissal of the charge of third-degree aiding and abetting the sale of a controlled substance. The parties agreed that disposition would be left open for argument. Disposition was consolidated with a probation-violation hearing concerning the earlier gross-misdemeanor case, and C.A.R. waived his right to a predisposition report.

The state argued that the district court should adjudicate C.A.R. delinquent in the felony case. It reasoned that, contrary to C.A.R.'s representation at the earlier disposition hearing "that he wouldn't be back [in court] again," C.A.R. was caught selling LSD "two

weeks later,” resulting in the new felony delinquency charge. The state contended that C.A.R. failed to “follow[] the [c]ourt’s order despite being on the probationary conditions that he not possess or engage in [the sale of drugs],” and that adjudication in the new case was therefore appropriate.

Counsel for C.A.R. argued that adjudication was not in C.A.R.’s best interests and that adjudication on the new felony delinquency was not required to protect public safety. Counsel reminded the district court that C.A.R. intended to join the military with the goal of eventually becoming a surgical technician and asserted that, because a fifth-degree controlled-substance crime “is a crime of violence under Minnesota law,” adjudicating C.A.R. delinquent would also prohibit him from owning a firearm. Counsel for C.A.R. urged the district court to withhold adjudication in both cases, or, alternatively, adjudicate C.A.R. only in the earlier gross-misdemeanor case.

The district court continued to withhold adjudication in the earlier gross-misdemeanor case but adjudicated C.A.R. delinquent on the new felony offense.

This appeal followed.

ISSUE

May a district court exercise its broad discretion to adjudicate a child delinquent in a felony delinquency case while continuing a stay of adjudication in an earlier and less-severe gross-misdemeanor delinquency case?

ANALYSIS

C.A.R. argues that the district court abused its discretion when it adjudicated C.A.R. delinquent in the new felony case while continuing to withhold adjudication on the earlier gross-misdemeanor offense.

A district court may make disposition in a juvenile-delinquency proceeding either by adjudicating a juvenile delinquent or by continuing the case without adjudication. Minn. R. Juv. Del. P. 15.05, subd. 1(A)-(B). A district court may continue without adjudication “[w]hen it is in the best interests of the child to do so” and when it is not harmful to the public. Minn. Stat. § 260B.198, subd. 7 (2018). In all other cases, the statute authorizes a district court to adjudicate the juvenile delinquent. *Id.*

We review a district court’s decision concerning adjudication for abuse of discretion. *In re Welfare of J.B.A.*, 581 N.W.2d 37, 38 (Minn. App. 1998), *review denied* (Minn. Aug. 31, 1998). District courts have “broad discretion in determining whether to continue an adjudication in a delinquency proceeding.” *In re Welfare of J.R.Z.*, 648 N.W.2d 241, 244 (Minn. App. 2002) (quotation omitted), *review denied* (Minn. Aug. 20, 2002). “[W]e affirm dispositions that are not arbitrary.” *In re Welfare of N.T.K.*, 619 N.W.2d 209, 211 (Minn. App. 2000) (quotation omitted). And although the district court may not place a delinquent child out of home unless that is “the least drastic step necessary to restore law-abiding conduct,” *id.*, that least-drastring-step requirement does not apply to the question of whether to adjudicate delinquency, *J.R.Z.*, 648 N.W.2d at 245.

C.A.R. contends that the district court should have withheld adjudication in the felony case and instead adjudicated him delinquent in the earlier gross-misdemeanor case

because doing so is in his best interests. Specifically, C.A.R. notes that having a crime of violence on his record will be detrimental to his future because he will likely be unable to join the military or obtain employment as a surgical technician. He argues that the district court should have taken the least-drastic step in making the disposition decision in his new felony file.

In support of his argument, C.A.R. cites to our decision in *J.R.Z.* 648 N.W.2d at 245. But, in that case, we determined that the “appellant *incorrectly* argue[d] that a district court’s decision to adjudicate must be the least drastic step necessary to restore law-abiding conduct in the juvenile.” *Id.* (emphasis added) (citation and quotation omitted). We held that the “[a]ppellant confus[ed] the standard for staying *adjudication* with the standard for ordering a particular *disposition*.” *Id.* at 245-46.

C.A.R. does not challenge the conditions of probation that the district court included in the disposition. He argues only that, because those same conditions could have been imposed by adjudicating the earlier gross-misdemeanor while withholding adjudication on the new felony, the district court abused its discretion. This would seemingly establish a rule of law that, where multiple adjudications are possible, a district court must adjudicate only the least-onerous offense. But decisions such as this are entrusted to the broad discretion of the district court. *Id.* at 244. We therefore decline to hold that adjudicating a felony delinquency is an abuse of discretion in a case where a gross-misdemeanor delinquency is available to be adjudicated.

Instead, we employ the general and deferential standard of review here. *J.B.A.*, 581 N.W.2d at 38. The record supports the district court’s adjudication of delinquency in the

new felony file. Only two weeks after the district court had withheld adjudication in the gross-misdemeanor case, C.A.R. committed a new drug offense. The district court properly considered the seriousness of the new offense and C.A.R.'s failure to comply with the terms of the earlier continuance without adjudication in consideration of C.A.R.'s expressed aspiration to join the military. The record supports the district court's explicit finding that appellant's continuing and apparently escalating delinquency "is a risk to public safety." That consideration is proper under Minn. Stat. § 260B.198, subd. 7. Therefore, the record supports the delinquency adjudication in the felony case.

Because the district court was not required to take the least-drastic step necessary when deciding whether to adjudicate C.A.R. delinquent on the new felony drug offense, and because the district court made the adjudication on careful consideration of the record, the district court acted within its broad discretion.

D E C I S I O N

The district court did not abuse its discretion when it adjudicated C.A.R. delinquent in a felony case while continuing to withhold adjudication in C.A.R.'s earlier gross-misdemeanor case.

Affirmed.