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DISTRICT IV

July 25, 2017

To:

Hon. Gregory J. Potter
Circuit Court Judge
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K. R. H.

You are hereby notified that the Court has entered the following opinion and order:

2016AP1442-NM In the interest of K.R.H., a person under the age of 18: State of Wisconsin v. K.R.H. (L.C. #2015JV32)

Before Sherman, J.¹

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Attorney Diane Lowe, appointed counsel for K.R.H., has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16).² Counsel provided K.R.H. with a copy of the report, and

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2015-16).

² All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

both counsel and this court advised him of his right to file a response. We received a response.³ We conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After our independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

K.R.H. was found delinquent on a charge of criminal damage to property. The court imposed a disposition of in-home placement and restitution.

The no-merit report addresses whether the evidence was sufficient to support the court's finding. When we review a finding to decide whether it is supported by the evidence, the test is not whether we would make the same finding ourselves based on that evidence. Instead, circuit court findings may be reversed only if they are "clearly erroneous." WIS. STAT. § 805.17(2).⁴

In this case, while there was evidence that could have supported a verdict in favor of K.R.H., there was also sufficient evidence to support a verdict in favor of the State. This included testimony that K.R.H. borrowed a key from another student and then walked away, and that he told another student he had keyed the truck in question. In addition, K.R.H. admitted that he had walked next to the truck while it was in the parking lot. Based on this testimony, it would be frivolous to argue that the circuit court's finding was clearly erroneous.

³ The response purports to be from K.R.H. and what appears to be his parents. However, it is not signed by anyone. It is also not clear whether parents can properly respond to a no-merit report when it is only the minor who is the attorney's client. However, because the only issue discussed in the response is sufficiency of the evidence, and we would always review that issue in a no-merit appeal even without a response, we need not consider whether to accept the response in its current unsigned form.

⁴ The no-merit report also cites the "no credible evidence" test provided in WIS. STAT. § 805.14(1). However, that statute applies to jury verdicts, and in this case there was no jury.

We also consider whether the court erred in its disposition. It would be frivolous to argue that the decision to order in-home placement was unreasonable. In addition, the court ordered \$893.16 paid as restitution. K.R.H. did not oppose the restitution request, and we see no other potential error on that topic.

Our review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the dispositional order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Lowe is relieved of further representation of K.R.H. in this matter. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Clerk of Court of Appeals