

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

FILED  
IN COURT OF CRIMINAL APPEALS  
OCT - 2 2001  
JAMES W. PATTERSON  
CLERK

J.L.H. )  
 )  
Appellant, )  
v. )  
 )  
The State of Oklahoma )  
 )  
Appellee. )

Case No. J-2001-57

**SUMMARY OPINION**

**CHAPEL, JUDGE:**

J.L.H. was adjudicated delinquent, because she had committed an act which, if she were an adult, would constitute the crime of Public Drunk in violation of 37 O.S.Supp.1986, § 8, in the District Court of Grady County, Case No. JF-2000-181. After a dispositional hearing the Honorable Oteka Alford committed J.L.H. to the custody of the Office of Juvenile Affairs, with placement with her grandmother. J.L.H. appeals from this adjudication and disposition.

J.L.H. raises three issues in support of her appeal:

- I. The trial court's decision should be vacated because it was contrary to both the facts and the trial court's own findings;
- II. The failure to file the individual treatment plan within thirty days, as required by statute, was prejudicial error under the facts of this case; and
- III. The trial court was without authority to order J.L.H. to pay a victim compensation assessment.

After thorough consideration of the entire record before us on appeal including the original record, transcripts, briefs and exhibits of the parties, we

find reversal is not required by the law and evidence. However, error in Proposition III requires J.L.H.'s sentence be modified.

We find in Proposition I that sufficient evidence was presented at the disposition hearing to support the trial court's disposition in this case; we further find the disposition was contrary neither to the trial court's own findings nor to the statutory requirement that a trial court shall place a delinquent child with the parents, consistent with the child's best interests.<sup>1</sup> We find in Proposition II that J.L.H. was not prejudiced by the failure to file her individual treatment and service plan within thirty days.<sup>2</sup> We find in Proposition III that the District Court is without authority to impose a crime victim compensation assessment unless the facts of this case involve criminally injurious conduct.<sup>3</sup> As no such conduct was alleged or supported by evidence here, the docket order for a \$25 victim compensation assessment fee is **VACATED**.

### **Decision**

The Adjudication of Delinquency and Disposition of the District Court are **AFFIRMED**. The \$25 Victim Compensation Assessment is **VACATED**.

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<sup>1</sup> 10 O.S.Supp.1999, § 7203-5.3(A)(2)(a). The trial court considered the testimony of adults concerning J.L.H.'s behavior and the witness's ability to exercise control over the child, and concluded that OJA custody, and placement with J.L.H.'s grandmother, were in J.L.H.'s best interests. 10 O.S.Supp.1999, § 7203-5.3(A)(2)(b). We reject the State's suggestion that this issue is moot, as J.L.H. was placed in the home with her mother on March 27, 2001, in Grady County Case No. JF-2000-207. The Grady County District Court has entered two conflicting placement orders. The placement order in this case was not contrary to law, and we will not vacate it simply because in another case J.L.H. received different placement.

<sup>2</sup> 10 O.S.Supp.1999, § 7203-5.2(A); 10 O.S.Supp.1999, § 7203-5.1(B).

<sup>3</sup> 10 O.S.Supp.1999, § 7203-5.3(8)(a). This includes an act resulting in bodily injury, the threat of bodily injury or death. 21 O.S.Supp.2000, § 142.3(5)(a).

APPEARANCES AT TRIAL

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**OPINION BY: CHAPEL, J.**

LUMPKIN, P.J.: CONCUR  
JOHNSON, V.P.J.: CONCUR  
STRUBHAR, J.: CONCUR  
LILE, J.: CONCUR

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NO RESPONSE FILED