[Cite as *In re T.M.*, 2012-Ohio-3408.]

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

In re T.M.

Court of Appeals No. H-11-009

Trial Court No. JUV 2011 00128

DECISION AND JUDGMENT

Decided: July 27, 2012

* * * * *

George C. Ford, Huron County Public Defender, and
James Joel Sitterly, Assistant 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 found appellant to be a delinquent child in violation of R.C. 2917.11(A)(1) and (E)(3)(b) following appellant's admission to the charge. For the reasons that follow, the judgment of the trial court is affirmed.

{¶ 2} The undisputed facts relevant to the issues raised on appeal are as follows. On February 23, 2011, appellant T.M. was involved in a physical altercation with a fellow student on school property at the beginning of the school day. As a result, appellant was charged with being a delinquent child in connection with disorderly conduct in a school safety zone. On May 11, 2011, appellant appeared in court with his attorney and admitted to the act of disorderly conduct. When questioned by the court, appellant stated that the fight started on the bus and said that the other student "was calling me racial slurs, slapping the back of my head the whole ride to school." Appellant said that the other student continued his behavior after they arrived at school and said further that "I kind of reached my limit and just hit him." Appellant admitted that he hit the other student several times. The trial court accepted appellant's admission and found him to be a delinquent child.

{¶ 3} When the trial court asked the state for recommendations for disposition, the prosecutor asked that appellant be required to write a 1,000-word essay on "why racism is wrong." The prosecutor noted that during the fight appellant had called the other student quite a bit of "racially slang-type words." At that time, appellant's counsel commented that ordering such an essay as part of disposition would amount to "thought control" and would be unconstitutional. Addressing appellant, the trial court commented:

> I think the Court is able to tell you, quite frankly, that racism is wrong. You believe racism is wrong because that's what you say caused the fight to occur. So I think writing an essay on, on this issue is very

important for you. * * * [B]eing sensitive to both sides of the racial divide, I think, is very important and writing this essay can help that happen.

{¶ 4} Appellant sets forth the following as his sole assignment of error:

I. The juvenile court abused its discretion when it imposed a viewpoint upon [the] child, thereby violating the free speech clause of the First Amendment.

{¶ 5} Appellant argues that the punishment imposed by the court is an ordered coercion concerning a viewpoint and hence, his First Amendment rights of free speech are infringed by virtue of the penalty ordered by the court. However, he has not attacked the constitutionality of the statute under which he was prosecuted but only the penalty. To the contrary, the First Amendment is not remotely implicated. The court imposed no restrictions on appellant's right to engage in free speech. Appellant's apparent objection to the topic of the essay required by the court does not make the penalty unconstitutional.

{¶ 6} The purposes of delinquent juvenile disposition, as set forth in R.C. 2152.01, are "* * * to provide for the care, protection, and mental and physical development of children subject to this chapter, protect the public interest and safety, *hold the offender accountable for the offender's actions*, restore the victim, and *rehabilitate the offender*. These purposes shall be achieved by a system of graduated sanctions and services." (Emphasis added.)

{¶ 7} A juvenile court has broad discretion in fashioning a dispositional order to achieve these purposes and will not be reversed absent an abuse of that discretion. *In re*

D.S., 111 Ohio St.3d 361, 2006-Ohio-5851, 856 N.E.2d 921, ¶ 6. An abuse of discretion is more than an error in judgment or a mistake of law; the term connotes that the trial court's attitude is unreasonable, arbitrary or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983).

{¶ 8} This court has carefully reviewed the trial court's record, including the transcript of the disposition hearing. After reviewing appellant's detailed narrative of the fight, including the racially-oriented verbal insults exchanged between the young men, we find that the trial court's order, tailored as it was to the offense, was in no way unreasonable, arbitrary or unconscionable. The trial court's order appears to be aimed at rehabilitating appellant and holding him accountable for his actions, as contemplated by R.C. 2152.01. Accordingly, we find that the trial court's order that appellant write a 1,000-word essay discussing "why racism is wrong" does not constitute an abuse of discretion. Appellant's sole assignment of error is not well-taken.

{¶ 9} 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