

IN THE COURT OF APPEALS OF IOWA

No. 6-1007 / 05-1554
Filed January 18, 2007

**IN THE INTEREST OF C.A.A.,
Minor Child,**

**C.A.A., Minor Child,
Appellant.**

Appeal from the Iowa District Court for Black Hawk County, Daniel Block,
Associate Juvenile Judge.

C.A.A. appeals the juvenile court's order requiring him to register as a sex
offender on the Iowa Sex Offender Registry. **AFFIRMED.**

Andrew Abbott, Waterloo, for appellant.

Thomas J. Miller, Attorney General, Linda Hines Assistant Attorney
General, Thomas J. Ferguson County Attorney, and Kathleen Hahn, Assistant
County Attorney, for appellee.

Considered by Huitink, P.J., and Vogel and Baker, JJ.

HUITINK, P.J.***I. Background Facts and Proceedings.***

On May 24, 2001, the State filed a petition alleging fourteen-year-old C.A.A. committed a delinquent act of sexual abuse in the second degree. Pursuant to a plea agreement, C.A.A. admitted sexually abusing an eight-year-old child. He was adjudicated a delinquent child on August 1, 2001. The August 22, 2001 dispositional order transferred C.A.A.'s custody to Juvenile Court Services for placement with relatives. The court placed C.A.A. on probation, subject to participation and progress in outpatient sexual offender treatment. Any decision concerning C.A.A.'s registration as a sex offender was deferred pending C.A.A.'s completion of court-ordered sex offender treatment.

In July 2002 the court modified the August 22, 2001 dispositional order by placing C.A.A. in residential treatment. C.A.A. remained in residential treatment until he reached age eighteen in September 2005.

On September 6, 2005, the court heard the matter of C.A.A.'s registration as a sex offender. After considering the evidence, including psychosexual evaluations by consulting psychologists as well as the report and recommendations made by Juvenile Court Services, the court ordered C.A.A. to register as a sex offender as provided by Iowa Code section 692A.2(4) (2005).

On appeal, C.A.A. argues the following:

- I. The court abused its discretion by ordering C.A.A. to register on the Iowa Sex Offender Registry.
- II. The court's order does not provide an adequate basis for requirement of registry on Iowa Sex Offender Registry.
- III. Placement of a juvenile offender on the Sex Offender Registry is punitive in nature contrary to the intent of the statute.

II. Standard of Review.

A juvenile court's sex offender registry decision, like all juvenile proceedings, is reviewed de novo. *In re J.D.F.*, 553 N.W.2d 585, 587 (Iowa 1996). However, where the legislature has built into a statute the element of the juvenile court's discretion, the appellate court applies a de novo review "to the extent of examining all the evidence to determine whether the court abused its discretion." *In re Matzen*, 305 N.W.2d 479, 482 (Iowa 1981).

III. Merits.

Iowa Code section 692A.2(4) states, in pertinent part:

A person who is convicted, as defined in section 692A.1, of a criminal offense against a minor, sexual exploitation, a sexually violent offense, or an other relevant offense as a result of adjudication of delinquency in juvenile court shall be required to register as required in this chapter unless the juvenile court finds that the person should not be required to register under this chapter

"The purpose of chapter 692A is clear: to require registration of sex offenders and thereby protect society from those who because of probation, parole, or other release are given access to members of the public." *In re S.M.M.*, 558 N.W.2d 405, 408 (Iowa 1997). The statute presumptively requires registration by juvenile sex offenders, unless the juvenile court in the court's discretion, concludes otherwise. Iowa Code § 692A.2(4). Section 692A.2(4) does not provide specific guidelines for the exercise of the court's discretion. *In re S.M.M.*, 558 N.W.2d at 407.

The trial court's decision was premised on the following findings of fact:

Upon review of the reports filed in the matter, the Court finds that significant concerns continue to exist in regard to the juvenile's ability to honor personal boundaries and engage in appropriate

healthy relationships and learn healthy patterns of behavior. Further, the Court has significant concerns in regard to the juvenile's support in the community upon the juvenile turning eighteen years of age. The Iowa Department of Juvenile Court Services has identified programming for the juvenile which will assist in the juvenile transitioning to his adult life, which includes room and board assistance. However, the need for protection for the community certainly outweighs the limited progress which the juvenile has made while under the juvenile court's supervision. Therefore, the Court finds that the state's recommendation that the juvenile comply with the Iowa Sex Offender Registry requirements should be granted.

Based on our de novo review of the record, we find abundant evidence supporting the trial court's findings of fact, and we adopt them as our own. We particularly note the following observations by C.A.A.'s Juvenile Court Services officer:

C.A.A.'s adjudication for Sexual Abuse Second Degree requires that he register on the Sex Offender Registry as stated in 692A.2 unless the Juvenile Court finds that the person should not be required to register. C.A.A.'s history in treatment for sex offenders has not been particularly successful. He failed the initial outpatient treatment, which necessitated placement in the STOP Residential Program. He was basically discharged from there as a maximum benefits [sic]. They had provided him with the tools necessary to keep from reoffending and thought that he needed to transition to less structure so as to better prepare him for independence. C.A.A. has not successfully completed Bremwood, as indicated above. As indicated in a previous report to the court, there was a period of relative success at Bremwood, but C.A.A. discredited his progress by engaging in physical contact with a younger resident after being repeatedly told not to. C.A.A. has continued in STOP Outpatient throughout his stay in residential, with varying levels of success. The most recent report indicates C.A.A. successfully completed all expectations of outpatient treatment. Only time will tell how C.A.A. will respond back in the community. I think the Registry is an important safeguard for the community.

We also note the following observations by the psychologist who evaluated C.A.A. in August 2005:

It should be recognized that C.A.A. has been living with a good deal of structure and supervision for the last four years. Transition to independent living, for any 18-year-old adolescent, is at best a stressful time in life. When one couples the normal adjustment issues with C.A.A.'s unique personality make-up and history, it is likely that he will encounter even a greater level of stress than most individuals his age. As a result, this examiner not only recommends placement on the Sex Offender Registry, but that C.A.A. also function under such restrictions as to prohibit direct and unsupervised contact with young children.

Like the trial court, we conclude C.A.A.'s registration as a sex offender is necessary to accomplish the earlier-mentioned public safety objectives underlying the statute. We affirm on this issue.

C.A.A. also argues that his placement on the sex offender registry is punitive in nature, which is contrary to the intent of the statute. "We believe the intent of our legislature in enacting section 692A.2A was not punitive." *State v. Seering*, 701 N.W.2d 655, 667 (Iowa 2005). "[T]he restrictions of section 692A.2A are predominately clothed with the earmarks of legislation to protect the health and safety of individuals, especially children, not to impose punishment." *Id.* After considering factors required by *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 168-69, 83 S. Ct. 554, 567, 9 L. Ed. 2d 644, 661 (1963), we concluded the statute did not impose criminal punishment. *Seering*, 701 N.W.2d at 668. Accordingly, we reject C.A.A.'s argument that the requirement that he register as a sex offender under Iowa Code section 692A.2 is punitive in nature. We affirm.

AFFIRMED.