

IN THE COURT OF APPEALS OF IOWA

No. 6-351 / 05-1622

Filed July 12, 2006

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

J.A.C., Minor Child,
Appellant.

Appeal from the Iowa District Court for Linn County, Susan F. Flaherty,
Associate Juvenile Judge.

J.A.C. appeals a juvenile court order denying his motion to excuse him
from registering as a sex offender. **AFFIRMED.**

Michael M. Lindeman, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Linda J. Hines, Assistant Attorney
General, Harold Denton, County Attorney, and Rebecca Belcher, Assistant
County Attorney, for appellee.

Considered by Sackett, C.J., and Huitink and Miller, JJ.

MILLER, J.

J.A.C. appeals a juvenile court order denying his motion to excuse him from registering as a sex offender. We affirm.

After admitting to sexually abusing his younger cousin over a period of years on multiple occasions, in August 2004 J.A.C. was adjudicated as having committed the delinquent offense of sexual abuse in the second degree. He was placed at the State Training School and remained there until May 2005. In October 2004 the juvenile court ordered that dispositional orders be extended beyond J.A.C.'s rapidly approaching eighteenth birthday.

In November 2004 J.A.C. filed a motion requesting that he not be required to register as a sex offender in accordance with Iowa Code section 692A.2(4) (2003). Due to various delays, hearing on his motion was set for a date past his May 2005 release date. Thus, upon his release from the State Training School J.A.C. did register as a sex offender in accordance with the statute.

The juvenile court held a hearing on J.A.C.'s motion in August 2005. In its resulting order the court noted J.A.C. had done well at the State Training School and had been compliant with tracking and supervision since his discharge. However, it denied J.A.C.'s request to be excused from registering as a sex offender based in part on his minimization of the offenses and the risk he continued to pose to others in the community. The court was "not convinced that [J.A.C.] has internalized his treatment [or] sees a need to utilize the treatment to prevent further offenses."

"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 creates a presumption that a juvenile offender is required to register. *Id.* at 407. Under the statute discretion lies with the juvenile court regarding whether the juvenile has overcome the presumption of registration. *Id.*

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). Thus, here we review de novo to determine whether the juvenile court abused its discretion in denying J.A.C.’s application to be excused from registering as a sex offender.

Based on the evidence in the record, including but not limited to: the length of time over which the abuse occurred; an incident of sadistic treatment of the victim by J.A.C. and J.A.C.’s stepbrother; the relatively short duration of J.A.C.’s treatment; the juvenile court officers’ recommendations; and J.A.C.’s minimization of the abuse and the risk he continues to pose to the community, we conclude the juvenile court did not abuse its discretion in determining J.A.C. did not overcome the presumption in favor of registration set forth in section 692A.2.

AFFIRMED.