

**IN THE COURT OF APPEALS OF IOWA**

No. 7-857 / 07-0199  
Filed January 16, 2008

**IN THE INTEREST OF J.M.M.,  
Minor Child,**

**J.M.M., Minor Child,  
Appellant.**

---

Appeal from the Iowa District Court for Johnson County, Stephen C. Gerard II, District Associate Judge.

A minor child appeals from a juvenile court order placing him in the guardianship of the Iowa Department of Human Services pending placement in a residential treatment program following his delinquency adjudication. **APPEAL DISMISSED.**

Lynn Rose of Mears Law Office, Iowa City, for appellant.

Thomas J. Miller, Attorney General, Linda J. Hines, Assistant Attorney General, Janet Lyness, County Attorney, and Elizabeth Beglin, Assistant County Attorney, for appellee State.

Considered by Vogel, P.J., and Mahan and Zimmer, JJ.

**ZIMMER, J.**

Jacky appeals from a juvenile court order placing him in the guardianship of the Iowa Department of Human Services (DHS) pending placement in a residential treatment program following his delinquency adjudication. We dismiss the appeal as moot.

The State filed a petition in November 2006 alleging Jacky committed the delinquent acts of assault with a dangerous weapon, criminal mischief in the third degree, possession of marijuana, and possession of alcohol under the legal age. Jacky was taken into custody on November 17, 2006, and placed in detention.

Pursuant to a plea agreement with the State, Jacky admitted at the pretrial conference that he shot a girl and “some windows and doors” with a BB gun. The juvenile court consequently entered an order on January 11, 2007, adjudicating him to have committed the delinquent acts of assault with a dangerous weapon and criminal mischief in the third degree.<sup>1</sup>

Jacky requested to proceed directly to disposition. He and his parents agreed with the recommendation of the State and the juvenile court officer that he be placed on the “DHS Group Care Residential Treatment Waiting List” for eventual placement in a residential treatment program. The juvenile court officer informed the court there was space available at a treatment facility for Jacky and he was “confident that it won’t be long before they’ll be able to accept him.”

The juvenile court determined it was in Jacky’s best interests to be “immediately placed in residential treatment and begin receiving services.”

---

<sup>1</sup> The allegations of possession of marijuana and possession of alcohol under the legal age were held in abeyance per the parties’ plea agreement.

However, the court noted that due to a “non-statutory waiting list process of date and time stamped orders and allocation of State funds and resources,” the State was unable to immediately place Jacky in the treatment program. The court accordingly placed Jacky “in the care and custody of the [DHS] for placement in a residential treatment program” and ordered DHS to put him “in such place as deemed to be in the child’s best interests” pending his placement in a treatment facility. DHS elected to keep Jacky in detention while he waited to be transferred to a residential treatment program.

Jacky appeals, claiming he was denied “minimally adequate treatment” because he did not receive any services while he waited in detention for placement in a residential treatment program. He further argues the group care waiting list is administered in an arbitrary fashion. The State contends the appeal should be dismissed as moot because Jacky was placed in a residential treatment program while the appeal was pending.<sup>2</sup> The State also contends Jacky received minimally adequate treatment. We agree with the State that the appeal should be dismissed as moot.

“An issue is moot if it no longer presents a justiciable controversy because it has become academic or nonexistent.” *In re D.C.V.*, 569 N.W.2d 489, 494 (Iowa 1997). “The test is whether the court’s opinion would be of force or effect in the underlying controversy.” *Id.* “As a general rule, we will dismiss an appeal ‘when judgment, if rendered, will have no practical legal effect upon the existing controversy.’” *In re M.T.*, 625 N.W.2d 702, 704 (Iowa 2001) (citations omitted).

---

<sup>2</sup> The record reveals Jacky was placed in Woodward Academy, a residential treatment facility, on January 30, 2007.

An exception to this general rule exists “where matters of public importance are presented and the problem is likely to recur.” *Id.* “Under these circumstances, our court has discretion to hear the appeal.” *Id.*

Jacky concedes his appeal was mooted by his placement in a residential treatment program. However, he argues we should reach the merits of the issues raised in his appeal because the “nature of juvenile cases is that the children age out of the system before the appellate process may run its course.” See *id.* at 704-05 (stating an “important factor to consider is ‘whether the challenged action is such that often the matter will be moot before it can reach an appellate court’”) (citations omitted).

We decline to exercise our discretion to reach the merits of the issues raised by the moot appeal. See *Christensen v. Iowa Dist. Ct.*, 578 N.W.2d 675, 679 (Iowa 1998) (stating we have discretion under the public importance exception in “deciding whether to accept a moot case”). The appeal is therefore dismissed as moot.

**APPEAL DISMISSED.**