

IN THE COURT OF APPEALS OF IOWA

No. 8-234 / 07-0984
Filed May 14, 2008

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

**J.W., Minor Child,
Appellant.**

Appeal from the Iowa District Court for Clinton County, Arlen J. Van Zee,
District Associate Judge.

A juvenile appeals from the order adjudicating him delinquent.

REVERSED.

John Wolfe of Wolfe Law Office, Clinton, for appellant minor child.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney
General, Mike Wolf, County Attorney, and Elizabeth Srp, Assistant County
Attorney, for appellee State.

Considered by Mahan, P.J., and Eisenhauer and Baker, JJ.

BAKER, J.

On October 6 and 9, 2006, the State filed petitions alleging J.W. had committed delinquent acts. During an October 9 hearing, the issue of J.W.'s mental health was first raised and on October 13, the juvenile court ordered a psychological evaluation. On October 20, J.W.'s mother and grandmother filed documents initiating proceedings under Iowa Code chapter 229 (2005) (Hospitalization of Persons with Mental Illness) and a hearing was scheduled for October 25. On that date, Dr. Venogopal Depala submitted a report in which he found J.W. was mentally ill and would benefit from treatment.

Following a hearing, over J.W.'s objection, the court placed J.W. in the custody of the Iowa Department of Human Services for placement in the State Training School for a thirty-day evaluation. Recognizing the possibly conflicting paths of chapters 229 and 232, the court stated:

Part of the problem is that while this case has not come up precisely as envisioned by the legislature, I believe that 232.51 will apply and that the commitment under Chapter 229 would be likely dispositive of the delinquency charges under 232.51.

J.W. subsequently moved to rescind this order, arguing the court's order lacked authority. On December 1, the court ordered that J.W. be "adjudicated pursuant to Chapter 229 of the Iowa Code as seriously mentally impaired based on the diagnosis set forth above." It further ordered that J.W. be placed in the Jackson Recovery Center PMIC.

An adjudicatory hearing was scheduled and J.W. responded with a motion to dismiss or, in the alternative, continue the scheduled hearing. The matter later came on for hearing on J.W.'s motion to dismiss and the State's petition that J.W.

be adjudicated as delinquent. J.W. asserted that because the court had found him to be mentally ill, based on the authority of Iowa Code section 232.51, the delinquency petition should be dismissed. Following that hearing, the juvenile court denied J.W.'s motion to dismiss and adjudicated J.W. as delinquent on all counts. With regard to the motion to dismiss, the court noted that

[a] diagnostic impression of Bipolar Disorder and Major Depressive Disorder and Conduct Disorder does not equal a conclusion that the child is mentally ill. [J.W.] was not committing law violations because he was mentally ill. [J.W.] was committing law violations because of purposeful choices he made. A juvenile with bipolar disorder, Major Depressive Disorder and Conduct Disorder is still responsible for his or her action.

The court later ordered that J.W. be placed on probation supervision through his eighteenth birthday.

J.W. has appealed from this ruling, contending the court erred in refusing to dismiss the delinquency petition even though he was found to be suffering from a serious mental impairment and was committed to a psychiatric facility for residential treatment. Generally, we review this matter *de novo*, *In re S.M.D.*, 569 N.W.2d 609, 610 (Iowa 1997); however, to the extent this issue involves statutory interpretation we review it for the correction of errors at law. *State v. Tarbox*, 739 N.W.2d 850, 852 (Iowa 2007).

J.W. claims the delinquency petition should have been dismissed, pursuant to Iowa Code section 232.51, after he was committed for mental illness treatment. Iowa Code section 232.51 provides as follows:

If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally ill, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court. These proceedings in the

juvenile court shall adhere to the requirements of chapter 229. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally retarded, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court. These proceedings shall adhere to the requirements of chapter 222. If the child is committed as a child with mental illness or mental retardation, any order adjudicating the child to have committed a delinquent act shall be set aside and the petition shall be dismissed.

Our task, thus, is to determine whether this provision required J.W.'s delinquency case to be dismissed once he was committed with a mental illness.

When we interpret ambiguous statutes, the ultimate goal is to give effect to legislative intent. *Citizens' Aide/Ombudsman v. Miller*, 543 N.W.2d 899, 902 (Iowa 1996). To arrive at the construction that best gives effect to legislative intent, we consider the language of the statute, the objects sought to be accomplished, and the evil sought to be remedied. *In re G.J.A.*, 547 N.W.2d 6 (Iowa 1996); *State v. Green*, 470 N.W.2d 15, 18 (Iowa 1991). "[I]n order to ascertain the legislature's intent, we look to the spirit of the statute as well as the words and give a 'sensible, workable, practical, and logical construction.'" *Holiday Inns Franchising, Inc.*, 537 N.W.2d at 728 (quoting *State v. Bartusek*, 383 N.W.2d 582, 583 (Iowa 1986)). We do not construe a statute in a way that would produce impractical, unreasonable, or absurd results. *Id.*

Our supreme court addressed section 232.51 in *In re S.M.D.*, 569 N.W.2d at 611, where the court analyzed the last sentence of the section directing the juvenile court to set aside any adjudicatory orders declaring the juvenile delinquent and to dismiss the petition that alleged the delinquent activity if the child was committed as a child with a mental illness pursuant to chapter 229. *Id.*

It concluded that when read in context, the word “any” refers only to those orders addressing petitions then under consideration. *Id.* The court, therefore, held this right of dismissal is limited to proceedings where the commitment is ordered in connection with a determination of delinquency. The statute does not require dismissals where the commitment is ordered at a later proceeding. *Id.*

The State contends the language of section 232.51 authorizes juvenile courts to dismiss delinquency proceedings upon evidence of a juvenile’s mental impairment, but only *after* entry of the adjudicatory order. It stresses the following language: “If the child is committed as a child with mental illness or mental retardation, any order adjudicating the child to have committed a delinquent act shall be set aside” However, we believe the State’s interpretation renders the final sentence incomplete. As the last sentence of the section further states, the juvenile court shall set aside any adjudicatory order declaring the juvenile delinquent *and* to dismiss the petition alleging delinquent activity. Here, at the time of J.W.’s adjudication as seriously mentally impaired under Chapter 229, there clearly was a then-existent, but as yet unresolved, delinquency petition.

As noted, *S.M.D.* counsels that section 232.51’s right of dismissal “refers only to those orders addressing petitions then under consideration.” *Id.* at 611. In this case, there clearly was a *petition then under consideration*. We believe the statutory scheme reflects a requirement that either the state proceed under Chapter 229 or 232, but not both. It appears that the juvenile court correctly noted this when, after it ordered that J.W. be placed in the State Training School for a thirty-day evaluation, it recognized that “commitment under Chapter 229

would be likely dispositive of the delinquency charges under 232.51.” However, despite this, the court still allowed the delinquency action to proceed. Having decided to proceed under chapter 229, section 232.51 prohibits further delinquency proceedings. “When, at the time of the adjudication of delinquency, the evidence indicates mental illness (or retardation) calls for a commitment, the child should be under the jurisdiction of a mental health institution rather than the juvenile court.” *Id.*

Moreover, in *In re S.M.D.*, the court addressed what it considered the “objects to be accomplished” by section 232.51. Chief among those goals, according to the court, is the legislature’s concern “with the juvenile being adjudged delinquent on account of the child’s lack of sufficient judgment to control his or her actions owing to mental illness or mental retardation.” *S.M.D.*, 569 N.W.2d at 611. We believe our resolution in this case is fully consistent with this goal. The medical evidence here was substantial that J.W.’s mental illnesses required hospitalization pursuant to chapter 229. Related to this goal, the court noted section 232.51 “calls for a correlation between the need for commitment and the delinquent behavior.” This correlation is certainly present here, as the mental health commitment proceedings were occurring simultaneously with the delinquency proceedings, and were based on similar time frames.

We therefore reverse with instructions that the delinquency proceedings pending at the time of the commitment be dismissed. We express no opinion regarding proceedings that may have arisen after the filing of this appeal.

REVERSED.

