MISSOURI COURT OF APPEALS
WESTERN DISTRICT

IN RE: THE MATTER OF: M.L.H.,

Appellant,

v.

JUVENILE OFFICER,

Respondent.

DOCKET NUMBER WD84193

Date: October 19, 2021

Appeal from:
Buchanan County Circuit Court
The Honorable Patrick K. Robb, Judge

Appellate Judges:
Before Division Two: Mark D. Pfeiffer, Presiding Judge, and Alok Ahuja, and Anthony Rex Gabbert, Judges

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Attorneys:
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Shariece L. Canaday, St. Joseph for respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

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IN RE: THE MATTER OF: M.L.H., Appellant,
v.
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WD84193 Buchanan County

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The Circuit Court of Buchanan County entered a judgment finding that M.L.H., a juvenile, committed acts which, if committed by an adult, would constitute the felony of tampering with electronic monitoring equipment, and the misdemeanor of assault in the fourth degree. After a dispositional hearing, the court ordered that M.L.H. be committed to the Buchanan County Academy, a juvenile detention facility.

M.L.H. appeals.

AFFIRMED.

Division Two holds:

M.L.H.'s appeal has not be rendered moot due to her release from juvenile detention. M.L.H. remains on probation, and a decision in her favor would free her from the restrictions and supervision which are incidents of her probation. Further, even if M.L.H. were no longer subject to supervision, a live controversy would nevertheless exist due to the potential future consequences of the circuit court's adjudication.

In determining whether M.L.H. acted "recklessly" in assaulting a staff member at the juvenile detention facility, the circuit court applied an objective standard in determining whether M.L.H.'s conduct "constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation." § 562.016.4, RSMo. M.L.H. now argues that this was error, and that the circuit court was required to consider her personal life experiences (including childhood trauma) in determining whether she acted reasonably. Although the objective "reasonable person" standard of care applicable in this case must take account of certain of M.L.H.'s generalized characteristics (such as her age and

mental capacity), the standard is *not* a subjective test based on her particular, individual life history.

The circuit court's determination that the Juvenile Officer had proven beyond a reasonable doubt that M.L.H. did not act in self-defense is not against the weight of the evidence. Even if the detention-facility staff member initiated a physical altercation with M.L.H., the court could reasonably find that M.L.H. used more force than was reasonably necessary to respond to the staff member's actions.

The evidence was sufficient to establish that M.L.H. was required by court order to wear electronic monitoring equipment, an essential element of the adjudication for tampering with that equipment. Because the order requiring M.L.H. to submit to electronic monitoring was entered by the same judge, in the same case, in which the allegation of tampering with monitoring equipment was being adjudicated, the Juvenile Officer was not required to introduce the court's prior order into evidence, or formally request that the court take judicial notice of that order.

Opinion by: Alok Ahuja, Judge October 19, 2021

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