2018 IL App (4th) 170608-U

NO. 4-17-0608

FILED
January 9, 2018
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re E. F.-M., a Minor,	)	Appeal from
	)	Circuit Court of
(The People of the State of Illinois,	)	Champaign County
Petitioner-Appellee,	)	No. 16JD224
v.	)	
E. F.-M.,	)	Honorable
Respondent-Appellant).	)	Heidi N. Ladd,
	)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Presiding Justice Harris and Justice DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: The juvenile court neither erred in adjudicating respondent delinquent nor in sentencing him to the Department of Juvenile Justice. However, the court erred in imposing certain fines against respondent.

¶ 2 On May 9, 2017, the juvenile court found respondent, E. F.-M. (born November 21, 1998), guilty of criminal sexual assault. On July 12, 2017, the court committed defendant to the Department of Juvenile Justice (DOJJ). On July 18, 2017, respondent filed a motion to reconsider his sentence. On August 14, 2017, the court denied the motion to reconsider sentence. Respondent appeals, making the following arguments: (1) his due process rights were violated when the juvenile court judge relied on generalized information about sexual assault not presented during the trial; (2) the court erred in committing respondent to DOJJ because the court did not properly consider his lack of a criminal record; and (3) the court improperly assessed seven fines against respondent. We affirm respondent's adjudication of delinquency

and sentence to DOJJ but remand the matter to the trial court directing it to vacate the improperly imposed fines.

¶ 3 I. BACKGROUND

¶ 4 On November 14, 2016, the State filed a petition for adjudication of delinquency and wardship, charging respondent with criminal sexual assault (720 ILCS 5/11-1.20(a)(1) (West 2016)) based on an act of sexual penetration on E.D. by the use of force or threat of force. Both respondent and E.D. were cadets at the Lincoln Challenge Academy (Academy) in Rantoul, Illinois. The charged incident took place in a bathroom at the Academy.

¶ 5 Respondent is not challenging the sufficiency of the evidence to convict. Instead, he argues the juvenile court relied on information not presented as evidence to find him guilty of criminal sexual assault. As a result, we will not delve into the specifics of the evidence in this case except as necessary.

¶ 6 The trial court heard testimony from E.D., respondent, and two other cadets, A.M. and L.B., who witnessed at least part of the sexual act in question. Respondent, A.M. and L.B. were roommates at the Academy. A.M. testified as a State witness. L.B. testified for the defense.

¶ 7 E.D. testified she did not agree to or consent to having sexual intercourse with respondent and told him no. Respondent testified the sex was consensual. According to respondent, E.D. guided his penis into her vagina with her hand. All the witnesses agreed respondent did not hit, punch, or choke E.D. A.M. and L.B. both testified they did not hear any yelling or screaming and did not witness the entire sexual encounter because respondent and E.D. were in the shower room. A.M. and L.B. were not in the shower room during the entire encounter. At some point, A.M. and L.B. looked into the shower room and saw respondent

having sexual intercourse with E.D. from behind in the corner. A.M. said E.D. saw L.B. and A.M. watching what was happening and looked scared. She told respondent to stop, but he did not. A.M. twice heard E.D. tell respondent to stop.

¶ 8 The witnesses agreed respondent withdrew at some point and walked in front of E.D. Respondent said he asked E.D. for oral sex. E.D. testified respondent told her to give him oral sex and told L.B. to have sexual intercourse with her from behind. When she refused to perform oral sex, respondent picked her up over his shoulder and put her on the shower floor.

¶ 9 After respondent placed E.D. on the floor, the sexual encounter ended. E.D. and A.M. both testified the encounter ended because A.M. stepped in and blocked respondent from E.D. E.D. was then able to pull her pants up and get out of the bathroom. L.B. and respondent testified the encounter ended because E.D. said no after she was on the floor.

¶ 10 Captain Sarita Taylor, who worked with E.D.'s unit at the Academy, testified E.D. came to her office about an hour after the incident occurred. Taylor testified E.D. reported she had been raped.

¶ 11 The incident was reported to the Rantoul police department, which investigated the allegation. During the investigation, respondent told the police he and E.D. had consensual sex and admitted being rough with her. Respondent said the encounter ended after E.D. refused to perform oral sex on him. L.B. told the police he felt "iffy" about the situation. Officer Rene Wissel testified L.B. originally denied any knowledge of the event but later told the police he and A.M. told respondent to stop. Officer Wissel testified E.D. seemed credible and A.M. seemed sincere.

¶ 12 C.A., another female student at the Academy, testified E.D. told her about the size of respondent's penis after the alleged assault and did not seem upset. E.D. denied talking about

the size of respondent's penis. Captain Taylor testified C.A. and E.D. had personality conflicts. Taylor also testified C.A. was not someone she would trust. However, Marvin Hunt, another teacher at the Academy, testified E.D. might be untruthful if she encountered a difficult situation.

¶ 13 In essence, the defense theory in this case was E.D., who had another boyfriend at the Academy, had consensual sex with respondent but said it was rape after A.M. and L.B. saw the sexual encounter because she did not want her boyfriend to know she was having consensual sex with respondent.

¶ 14 On May 9, 2017, at a hearing to announce the juvenile court's decision in this case, the court noted it had carefully considered the evidence in the case, which consisted of witness testimony. The judge noted she considered the individual witness's manner and demeanor while testifying, his or her credibility, and any bias or motive he or she might possess.

¶ 15 The trial judge noted E.D., the alleged victim in this case, had a "straightforward" and at times "flat" demeanor. The court found her credible, stating:

> "She made no attempt to embellish or manipulate what she was describing or enhance the events occurring or her version of the events to present them more favorably to her. She did not try to portray the Respondent minor as violent or try to bolster her report. It struck the Court in evaluating her demeanor and testimony that she was describing what occurred in a very forthright and credible manner.
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> * * *
>
> I would note that during that course of the testimony [where she described respondent turning her toward the wall, pulling down her pants, and inserting his penis into her vagina] her demeanor became much quieter. She dropped her

voice, and it was apparent that the manner she was describing the events in [*sic*] changed so that it was notable that her demeanor had in fact varied at that point as she was describing those events.

She was asked if she could move away. She said she felt like she could not but probably could have, and I found that struck the Court as very straightforward and honest again and not trying to enhance or embellish what occurred. *It's not uncommon for victims of sexual assault to state a helpless feeling and in retrospect second guess what they could have done in hindsight to stop the events, and that's how that came across to the Court*.

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On cross examination, she did acknowledge she was not pinned, she did not scream, she was not struck in any way by the Respondent minor. She described that she felt trapped. She indicated she was shocked. She felt she could not move. She indicated repeatedly that she said no, she never consented and she never wavered in cross examination or on direct that she had said no. She said she was scared and there was not much I could do so that was her description of events." (Emphasis added.)

¶ 16 The juvenile court then addressed respondent's testimony. The court noted it had evaluated both respondent's credibility and the substance of his testimony. Respondent admitted his testimony was different than what he told the investigating police officer on the day of the alleged assault. While respondent blamed this on being nervous, the court did not believe him, stating respondent's statement to the police was intended to minimize his involvement. Respondent told the investigating police officer he left the bathroom after E.D. declined to

perform oral sex on him. However, respondent admitted at trial he put E.D. on the floor after she refused to perform oral sex. Further, while respondent told the investigating officer he was rough with E.D., he attempted to downplay this statement during his testimony.

¶ 17 With regard to L.B.'s testimony, the juvenile court found he was trying to help respondent. His testimony also was not entirely consistent with respondent's version of events, especially concerning what L.B. did with E.D. both before and after they all went into the bathroom. In addition, the court noted L.B. initially denied any knowledge of the alleged sexual assault when he spoke with the investigating police officer. According to the court:

> "[L.B.] claimed he was nervous. I didn't see any signs of nervousness in court. I saw someone who was again on a mission to help his friend. He told Officer Wissel at the time that he and [A.M.] told the respondent minor to stop and he denied saying that. He told Wissel, Officer Wissel, at the time that [E.D.] had asked the Respondent minor to stop when he put her on the floor.
>
> He also admitted to Officer Wissel that he felt iffy about the incident in the bathroom. He admitted that in his testimony but said he wasn't iffy about what happened but it was just not okay to watch them have sex so he qualified his statement."

¶ 18 The juvenile court found A.M., the other person who was in the bathroom during at least part of the alleged crime, to be credible. According to the court, A.M. did not seem to embellish his testimony or want to be testifying. A.M. testified he laughed when he saw the sexual act between respondent and E.D. However, he then realized E.D. looked frightened.

¶ 19 A.M. testified he heard E.D. tell respondent to stop and seemed serious. A.M. also testified respondent asked both A.M. and L.B. to make up a story as to what happened so they

would not get in trouble. The court noted A.M. admitted not reporting the incident to anyone. However, when the police interviewed him, he told the truth and was not impeached with any conflicting statements. The court noted A.M. struck her as someone who was telling the truth. He was direct about what happened and corroborated E.D.'s version of events.

¶ 20 The juvenile court also found Captain Serita Taylor's testimony compelling. Captain Taylor testified E.D. appeared almost like she was in shock after the alleged assault and asked Taylor how rape is defined. After Taylor provided the definition, E.D. told her she had been raped. According to the Court:

> "Captain Taylor was very unbiased. She's very believable. She has no reason to make anything up in her description about how that report was made to her. It's consistent with [E.D.'s] emotional upset, her being emotionally upset, processing what happened, still in shock and trying to decide how to handle it, not sure how to even interpret the events. *It's very consistent with someone who's just figuring out what had happened and how to deal with it and how to react to the fact that they had been raped.*
>
> If [E.D.] was fabricating and making up events to get the minor in trouble as is the minor's theory here or to cover up for consensual sex with the minor so her boyfriend would not find out about it, she did not do a good job. She would have reported it immediately to the captain. She would have been much more definitive in her terms. There was a lot of room to enhance what happened. " (Emphasis added.)

¶ 21 The juvenile court found respondent saw an opportunity and took advantage of it. He was able to get E.D. to a secluded space and then locked the door. He then used his size and

strength advantage and the element of surprise to pin E.D. in a corner, pull down her pants, and rape her. It was only when he demanded oral sex that he lost control of the situation. When E.D. refused to perform oral sex, respondent picked her up and put her on the floor where he could continue the vaginal rape. At that point, A.M. intervened and stopped the assault. The court found E.D. did not consent to respondent's actions, and the State proved the offense of criminal sexual assault beyond a reasonable doubt. The court remanded respondent to the custody of the Court Services Department to be held pending sentencing.

¶ 22 On July 7, 2017, a social investigation report prepared by a juvenile probation officer was filed with the juvenile court. The report noted respondent had participated in a Youth Assessment Screen Instrument (YASI), which categorized respondent as a moderate risk offender. According to the report, during respondent's detainment at the Champaign County Juvenile Detention Center, respondent continued to make inappropriate sexual comments and behave inappropriately. He made inappropriate comments to other minors in custody regarding the buttocks of a female detention officer. In addition, he allegedly made inappropriate contact with at least one female detainee by rubbing his feet or knees on her buttocks. The probation officer found respondent to be engaging but somewhat arrogant and callous, taking no responsibility for the rape or his behavior while in custody. Because respondent could not manage to behave appropriately while in custody, the probation officer had little reason to believe he would behave in an appropriate manner if he was given a community-based sentence. The probation officer recommended respondent be committed to DOJJ.

¶ 23 A juvenile sex offender evaluation and risk assessment was also filed with the juvenile court. This report notes, "although actuarial predictions are more accurate than most other assessment methods it is best to view them as conservative predictions which research

suggests underestimate actual risk." The assessment later conceded it is difficult to precisely predict a person's risk to reoffend. According to the report, respondent was in the low to possibly low to moderate risk group of reoffending. However, the evaluator reserved the right to alter or modify the assessment based on any new information. The assessment recommended a community-based sentence for respondent.

¶ 24 On July 12, 2017, the juvenile court held a sentencing hearing. The court first denied respondent's motion for a new trial or judgment notwithstanding the verdict. The court then noted it considered the court services report, the youth detention center report, and all appropriate evidence. The court also noted it had considered respondent's statement in allocution, the testimony and statements of respondent's parents, arguments and recommendation from both the State and respondent's attorney, court service's recommendation, the nature and circumstance of the offense, and all the factors set forth in section 5-4.5-105 of the Unified Code of Corrections (730 ILCS 5/5-4.5-105 (West 2016)).

¶ 25 The juvenile court noted respondent had no prior police or court contacts. The court noted this was a considerable factor in mitigation. The court then stated a defendant having a clean record is not unusual in a sex offense case. The court found the nature and circumstances of the offense were very aggravating. According to the court, this was not a youthful indiscretion which resulted from impulsiveness or a lapse in judgment. Instead, the court noted it was a violent act of sexual assault on E.D., a 17-year-old girl. The court also stated it was concerned by respondent's attitude. The court services officer noted respondent had a certain arrogance, blaming the victim and deflecting responsibility for his actions onto her.

¶ 26 The juvenile court also noted it found respondent's behavior in custody illuminating. The court noted it expected respondent would have learned his lesson and changed

his behavior. However, while in the detention center, respondent caused problems. The court stated this was one of the worst reports she had seen for someone awaiting sentencing.

¶ 27 According to the juvenile court, the report showed respondent had 12 interventions that required time-outs. He also had at least seven or more incidents where he refused or failed to comply with redirections or committed more serious rule violations. Respondent was a constant disruption at the detention center, cursing at and disrespecting the staff and other individuals there. The court stated:

> "At one point [respondent referred to a detention officer] as sexy lady, and as documented in the social investigation report by Ms. Hewkin, comment[ed] on the buttocks of one of the female officers. This is a young man who has a problem with how he views women, and the filter that he uses in viewing the sexual interactions with them. There's another incident where he receives a disciplinary intervention because he's touching the buttocks of another female detainee.
>
> This is someone who has no boundaries, and it's continuing to get him in trouble. While he knows this Court is going to be sentencing him for raping someone, this is the best that he can put forward. There is a problem here."

The court noted respondent presented an "untenable risk to the community" because of his attitude toward women and authority.

¶ 28 The juvenile court noted it carefully considered whether to give respondent probation. The court also stated it never lightly sentences anyone to DOJJ. The court found sending respondent to DOJJ was the only appropriate sentence available to the court to both benefit the minor and his rehabilitation and protect the public. The court noted it had reviewed

all of the factors included in section 5-750 of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/5-750 (West 2016)). The court also stated respondent would "have the benefit of sex offender evaluations, counseling, treatment, psychological counseling, assessments, education, counseling services as a group, as well as social services" while in DOJJ. The court sentenced respondent to the DOJJ for a period of 15 years or until he turns 21 years of age, whichever occurs first.

¶ 29 On July 18, 2017, defendant filed a motion to reconsider his sentence. On August 14, 2017, the juvenile court denied defendant's motion to reconsider his sentence.

¶ 30 This appeal followed.

¶ 31 II. ANALYSIS

¶ 32 A. Adjudication

¶ 33 Respondent first argues the juvenile court violated his due process rights by relying "on vague generalizations about sexual assault which were not supported by any evidence presented" during the trial. Respondent points to two statements by the court during the adjudicatory phase of the proceedings. First, the court stated: "It's not uncommon for victims of sexual assault to state a helpless feeling and in retrospect second guess what they could have done in hindsight to stop the events, and that's how that came across to the Court." Second, the court stated: "It's very consistent with someone who's just figured out what had happened and how to deal with it and how to react to the fact that they had been raped." According to respondent, even if the court's statements were correct, the State presented no evidence regarding these generalities, and the propositions were not subject to any kind of adversarial testing.

¶ 34 Respondent acknowledges he did not preserve this argument. However, he asks

us to review this issue pursuant to the plain-error doctrine. Under the plain-error doctrine, a reviewing court may consider an unpreserved error if the alleged error was a clear or obvious error and (1) the evidence is closely balanced or (2) the error was so serious defendant was denied a fair hearing. Ill. S. Ct. R. 615(a) (eff. Feb. 6, 2013); *People v. Sebby*, 2017 IL 119445, ¶ 48. However, the first thing this court must do is determine whether a clear or obvious error occurred. *Sebby*, 2017 IL 119445, ¶ 49. We find respondent has not established the trial court's statements constituted a clear and obvious error.

¶ 35 Our supreme court has stated: "A determination made by the judge based upon a private investigation by the court or based upon private knowledge of the court, untested by cross-examination, or any of the rules of evidence constitutes a denial of due process of law." *People v. Wallenberg*, 24 Ill. 2d 350, 354, 181 N.E.2d 143, 145 (1962). "Due process does not permit [the trial court] to go outside the record, except for matters of which a court may take judicial notice, or conduct a private investigation in a search for aids to help him make up his mind about the sufficiency of the evidence." *People v. Yarbrough*, 93 Ill. 2d 421, 429, 444 N.E.2d 493, 496 (1982). However, respondent is applying the legal principles cited too broadly. It is important to remember "[a] trial judge does not operate in a bubble; she may take into account her own life and experiences in ruling on the evidence." *People v. Thomas*, 377 Ill. App. 3d 950, 963, 881 N.E.2d 541, 552 (2007).

¶ 36 The comments in question by the trial judge in this case were not based on the court's private investigation or private knowledge of material or determinative facts in this case. Respondent has failed to establish the trial court engaged in any private investigation in reaching its decision. Further, respondent has failed to establish the trial judge relied on any private information not presented as evidence to the court to decide a material question of fact. Instead,

the trial judge in this case made two general observations—based on her own experiences—of what was common among victims of sexual assault. The record does not reflect these two observations were the bases for the court finding respondent guilty of criminal sexual assault. Instead, it appears the court found E.D. credible and was simply noting E.D.'s behavior is common among victims of sexual assault. The trial court made these two general observations during an extensive evaluation of the evidence presented.

¶ 37 The juvenile court's comments in this case are similar to the trial court's comments at issue in *People v. Jenk*, 2016 IL App (1st) 143177, 62 N.E.3d 1089. In *Jenk*, the trial court stated:

> " 'You know, we can all ask every day why a person *** would stay in a relationship with a person who's battering them, but I don't think that, that's something that she did because she said she loved him, and *it's not the first time that's happened*, and so I think that it's completely credible that she stayed because she loved him even though he continued to batter her.' " (Emphasis added.) *Jenk*, 2016 IL App (1st) 143177, ¶ 52.

The defendant took issue with the language italicized above, arguing it shows the trial court "incorporated its personal knowledge in making its ruling, in violation of due process." *Jenk*, 2016 IL App (1st) 143177, ¶ 52. The First District distinguished the situation before it from the situation in *Wallenberg*, 24 Ill. 2d 350, 181 N.E.2d 143, where the trial court used its own personal knowledge of a material fact not presented as evidence to discredit a defendant's alibi. In *Jenk*, the First District stated:

> "Viewing the complained-of remark within the context of the entirety of the court's ruling, we find that, unlike *Wallenberg*, it was a benign comment which

did not form the basis of the court's finding that A.C.R. testified credibly about the specific facts pertaining to the abuse or its ultimate ruling in finding the defendant guilty. Rather, the record shows that the trial court thoroughly summarized A.C.R.'s testimony about the June 9, 2013, incident that gave rise to the charged offense, as well as her testimony about the three prior incidents of domestic violence and the supporting photographic evidence, which formed the basis of the trial court's determination of guilt. Thus, we find that the defendant has not rebutted the presumption that the trial court only considered admissible evidence in reaching its conclusion." *Jenk*, 2016 IL App (1st) 143177, ¶ 55.

¶ 38 The trial court in this case also thoroughly summarized the evidence and explained why it felt the testimony of E.D. and A.M. was credible. Like in *Jenk*, the comments complained of here were benign when viewed in the context of the court's statements. The trial court's comments do not show the trial court engaged in any independent investigation or relied on any material fact known only to her to find respondent guilty.

¶ 39 The cases respondent relies on are easily distinguishable from the situation here. In *Wallenberg*, the trial court entirely negated the defendant's credibility and alibi based on his own private knowledge regarding a material fact absent any evidence of this material fact. *Wallenberg*, 24 Ill. 2d at 354, 181 N.E.2d at 145. The same thing happened in *People v. Barham*, 337 Ill. App. 3d 1121, 788 N.E.2d 297 (2003), where the trial court declared it had all the facts it needed to determine what the defendant's blood alcohol content was at the time of the accident. However, the appellate court found the record did not contain sufficient competent evidence for the trial court to make such a determination. *Barham*, 337 Ill. App. 3d at 1134-35, 788 N.E.2d at 308. According to the appellate court, the trial court's calculation did not have a

proper foundation, was not based on any degree of scientific certainty, and was "nothing more than conjecture." *Barham*, 337 Ill. App. 3d at 1135, 788 N.E.2d at 309. In *People v. Dameron*, 196 Ill. 2d 156, 751 N.E.2d 1111 (2001), the trial court stated during sentencing he had intentionally sought out a book because, in essence, the case before him reminded him of the book. The trial court also sought out a transcript of a statement his father, who was also a judge, had made when sentencing a defendant in another case.

¶ 40 As previously stated, the record in this case does not establish the trial court engaged in any independent investigation or made any material factual findings based on some private knowledge of a fact not introduced as evidence. A trial judge is entitled to consider her own life experiences and knowledge that is not specific to the factual situation in the case before it. That is what the trial court did, and we find the trial court did not err. Thus, we need not proceed any further with defendant's plain-error argument.

¶ 41 B. Sentence

¶ 42 Respondent argues the juvenile court erred in sentencing him to DOJJ. He asks this court to vacate his commitment to DOJJ and remand for a new sentencing hearing. We review *de novo* whether the trial court complied with the requirements of the Juvenile Court Act in sentencing a juvenile to DOJJ. *In re Ashley C.*, 2014 IL App (4th) 131014, ¶ 22, 8 N.E.3d 1142. However, the court's ultimate sentence will only be disturbed if the court abused its discretion. *In re M.Z.*, 296 Ill. App. 3d 669, 674, 695 N.E.2d 587, 591 (1998). We review the sentence in light of the purpose of the Juvenile Court Act, which "is to secure for each minor subject hereto such care and guidance, preferably in his or her own home, as will serve the safety and moral, emotional, mental, and physical welfare of the minor and the best interests of the community[.]" 705 ILCS 405/1-2(1) (West 2016).

¶ 43 According to section 5-750 of the Juvenile Court Act, "Before the court commits a minor to the Department of Juvenile Justice, it shall make a finding that secure confinement is necessary." 705 ILCS 405/5-750(1) (West 2016). In making this determination, the court must consider certain factors enumerated in the statute. We note the court stated it considered these factors before sentencing respondent to DOJJ.

¶ 44 One factor the juvenile court must consider is the juvenile's criminal background. 705 ILCS 405/5-750(1)(B) (West 2016). The court in this case noted respondent had no prior contacts with the police or the court. The court stated this was a "considerable factor in mitigation." However, respondent takes issue with the court's observation it is not unusual in sex offense cases for defendants to have a clean record. According to respondent, this statement shows the trial court discounted the fact he did not have a criminal background. We disagree.

¶ 45 The record does not support respondent's argument. The court did not indicate it was giving less weight to defendant's lack of a criminal history simply because this was a sex offense. Further, the court clearly indicated it was considering respondent's lack of a criminal history a mitigating factor.

¶ 46 As a result, respondent's reliance on *People v. Heider*, 231 Ill. 2d 1, 896 N.E.2d 239 (2008), and *People v. Calhoun*, 404 Ill. App. 3d 362, 935 N.E.2d 663 (2010), is misplaced. In *Heider*, the trial court considered what should have been a mitigating factor as an aggravating factor. *Heider*, 231 Ill. 2d at 22, 896 N.E.2d at 251. In *Calhoun*, the trial court failed "to give due recognition to the provocation" under which the defendant acted. *Calhoun*, 404 Ill. App. 3d at 388, 935 N.E.2d at 685. The First District found "[s]ection 5-5-3.1(a) of the Unified Code of Corrections [(730 ILCS 5/5-5-3.1(a) (West 2002))] mandates that in imposing a sentence the trial judge consider as a mitigating factor whether defendant acted under 'strong provocation,' or

whether there were circumstances which would 'excuse or justify the defendant's criminal conduct[.]' " *Calhoun*, 404 Ill. App. 3d at 386, 935 N.E.2d at 683. Instead, the First District held "the record effectively demonstrates that instead of focusing on the undeniably egregious nature of the provocation, the trial judge chose to focus on the defendant's actions responding to that provocation as vigilantism, thereby warranting higher punishment." *Calhoun*, 404 Ill. App. 3d at 387, 935 N.E.2d at 684-85.

¶ 47 The simple fact respondent did not have a criminal history but ended up being sentenced to DOJJ does not mean the trial court did not consider his lack of criminal history as an important mitigating factor. A juvenile's first crime can be so serious as to justify a DOJJ sentence. The juvenile court did not take its decision to sentence respondent to DOJJ lightly and did not abuse its discretion in sentencing respondent to DOJJ.

¶ 48 Further, for the reasons stated above, the juvenile court did not err by stating during sentencing that it often sees individuals whose public behavior does not reflect any kind of problem but their private behavior toward their victims is quite different. Once again, the record does not reflect the trial court engaged in any kind of private investigation or used private information to decide an issue of material fact in this case.

¶ 49 C. Fines

¶ 50 Respondent next argues the trial court improperly imposed seven fines on respondent because the Juvenile Court Act does not provide statutory authority for imposing fines on juveniles. Respondent takes issue with the following fines: $50 court finance fee (55 ILCS 5/5-1101(c)(1) (West 2016); *People v. Smith*, 2014 IL App (4th) 121118, ¶ 54, 18 N.E.3d 912); $15 state police operations assessment (705 ILCS 105/27.3a(1.5), (5) (West 2016); *People v. Warren*, 2016 IL App (4th) 120721-B, ¶ 147, 55 N.E.3d 117); $10 local anti-crime assessment

(730 ILCS 5/5-6-3(b)(12, 13) (West 2016); *People v. Dowding*, 388 Ill. App. 3d 936, 948, 904 N.E.2d 1022, 1033 (2009)); $10 arrestee's medical assessment (730 ILCS 125/17 (West 2016); *Warren*, 2016 IL App (4th) 120721-B, ¶ 119); $5 drug court program assessment (55 ILCS 5/5-1101(d-5) (West 2016); *Smith*, 2014 IL App (4th) 121118, ¶ 57); $200 sex assault fine assessment (730 ILCS 5/5-9-1.7(b)(1) (West 2016); *People v. Vara*, 2016 IL App (2d) 140848, ¶ 9, 76 N.E.3d 10); and $500 sex offender fine assessment (730 ILCS 5/5-9-1.15(a) (West 2016); *Smith*, 2014 IL App (4th) 121118, ¶ 81). Defendant argues these assessments should be vacated as no statutory authority exists for them to be imposed in a case under the Juvenile Court Act.

¶ 51 Citing In re *Raheem M.*, 2013 IL App (4th) 130585, ¶ 63, 1 N.E.3d 86, the State concedes no statutory authority supports imposing these fines after a delinquency proceeding and any fines improperly imposed on respondent should be vacated. We accept the State's concession and remand with directions to vacate respondent's $50 court finance fee assessment, $15 state police operations assessment, $10 local anti-crime assessment, $10 arrestee's medical assessment, $5 drug court program assessment, $200 sexual assault fine, and $500 sex offender fine.

¶ 52 III. CONCLUSION

¶ 53 For the reasons stated, we affirm the trial court's judgment and decision to sentence respondent to DOJJ but remand with directions for the trial court to vacate the fines imposed on respondent.

¶ 54 Affirmed as modified and remanded with directions.