UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1499

September Term, 2014

IN RE: KOREEM M.

Meredith,
Berger,
Thieme, Jr., Raymond G.
(Retired, Specially Assigned),

JJ.

Opinion by Thieme, J.

Filed: June 11, 2015

By petition filed April 9, 2014, appellant, Koreem M., then aged 15, was charged with the delinquent acts of: (1) theft of property with a value of at least $1000 but less than $10,000 and (2) theft of property with a value under $1000. At the conclusion of an adjudicatory hearing, the Circuit Court for Prince George's County, sitting as a juvenile court, found Koreem M. involved as to count one of the delinquency petition, theft of property with a value of at least $1000 but less than $10,000,[1] and placed him in detention pending disposition.

At the disposition hearing, the juvenile court released Koreem M. from detention, placed him on probation, and required him to complete 80 hours of community service and to maintain a 3.5 grade point average in school. Koreem M. noted an appeal of the juvenile court's decision, in which he raises the following question:

> Did the [juvenile] court abuse its discretion in placing and keeping Respondent in detention pending disposition?

For the reasons that follow, we shall dismiss the appeal as moot.

FACTS AND LEGAL PROCEEDINGS

At the June 25, 2014 adjudicatory hearing, Shokitha F. testified that she had been Koreem M.'s pre-adoptive foster mother for approximately ten years. On February 1, 2014, Ms. F. found Koreem in possession of drugs that had been placed in a prescription pill bottle bearing her son's name. Ms. F. flushed the drugs down the toilet, after which Koreem acknowledged possession of the pill bottle but denied knowing what was in it, claiming he

[1]The court merged the second count of the petition therein.

was holding the items for a friend. Ms. F. implored Koreem not to "fall back into this" and punished him by taking away his iPod and cell phone. Thereafter, Koreem, "a little upset," went to bed without incident. On February 2, 2014, however, Koreem ran away from Ms. F.'s home.

On February 3, 2014, Ms. F. went to retrieve a pair of shoes she had purchased as a Valentine's Day gift for her children's father, but they were missing from the spot under her bed where she had placed them. Because the door to her room had been locked, Ms. F. assumed that Koreem, the only one who had been home since she had last seen the shoes, had broken into her room and stolen them. She also discovered that two watches, a prepaid cell phone, several gift cards, coins from a piggy bank, some cash, and a pair of headphones were missing from her home.[2] After Ms. F. contacted Koreem's guardian *ad litem* ("GAL"),[3] to whom Koreem admitted to stealing the shoes, the shoes were returned to her.

Koreem testified that he had taken the shoes from Ms. F.'s home, but he claimed that he took them only because he thought they were meant as a birthday gift for him. When Ms. F. informed his GAL that the shoes were not for him, he immediately gave them to his social worker to return to Ms. F. He denied taking any of the other missing items from Ms. F.'s home.

[2]Ms. F. provided the approximate monetary value of some of the missing items, which totaled more than $1000 but less than $10,000.

[3]"Guardian *ad litem*" is defined as "[a] guardian, usu. a lawyer, appointed by the court to appear in a lawsuit on behalf of an incompetent or minor party." Black's Law Dictionary (10th ed. 2014).

The juvenile court, deeming Koreem's testimony "not credible at all," found him involved as to count one of the delinquency petition, theft of property with a value of at least $1000 but under $10,000, merging the other count therein. The court remanded Koreem into the sheriff's custody pending disposition scheduled for July 14, 2014.

Defense counsel objected to pre-disposition detention, on the ground that Koreem was not a threat to himself or others, and he was likely to appear in court for disposition. The court, reiterating that Koreem had broken into his foster mother's bedroom and then run away from her home, affirmed the order of pre-disposition detention.

On July 1, 2014, Koreem filed a motion to reconsider the imposition of pre-disposition detention, arguing that he had never previously been found involved in an offense, that the offense for which he had been found involved on June 25, 2014 was non-violent, and that he would have the opportunity to earn college credit if able to participate in a college preparedness course at George Washington University over the summer of 2014. He requested that the court either rescind the detention order and release him or modify the detention order to make him eligible for community detention.[4] On the same date, the Maryland Department of Juvenile Services filed a memorandum with the court requesting that Koreem be released to the care and custody of his legal guardian or into a community

[4]Md. Code (2013 Repl. Vol.), §3-8A-01(h) of the Courts & Judicial Proceedings Article ("CJP"), defines "community detention" as a "program monitored by the Department of Juvenile Services in which a delinquent child or a child alleged to be delinquent is placed in the home of a parent, guardian, custodian, or other fit person, or in shelter care, as a condition of probation or as an alternative to detention."

detention program, either of which would permit him to attend the course at George Washington University. The juvenile court denied Koreem's motion on July 1, 2014 and the Department of Juvenile Services's request on July 8, 2014.

On July 14, 2014, the juvenile court released Koreem from detention and placed him on probation, with conditions, as noted above. Koreem filed his notice of appeal on August 8, 2014.

DISCUSSION

Koreem M.'s only claim of error rests on his assertion that the juvenile court abused its discretion in placing him in pre-disposition detention. Neither the State nor the Department of Juvenile Services had requested pre-disposition detention, and, given the fact that he was a good student who had never been in trouble before being adjudicated involved in a non-violent crime, he avers that the court had "no rational reason" to place him in detention pending disposition and that the court's actions were "impermissibly punitive."

The State first asserts that Koreem M.'s appeal should be dismissed as untimely because his August 8, 2014 notice of appeal was not filed within the required 30 days after the imposition of the June 25, 2014 pre-disposition detention order. *See* Maryland Rule 8-202(a) ("Except as otherwise provided in this Rule or by law, the notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken.").

If we disagree and do not dismiss the appeal as untimely, the State goes on to argue that the issue Koreem M. presents is moot because the juvenile court's ultimate disposition

released him from detention and imposed probation and other conditions upon him. As such, the pre-disposition detention order is no longer the "operative order" addressing his status, and his release from pre-disposition detention gave him exactly what he sought.

Finally, and in any event, the State avers, the juvenile court operated within its discretion in imposing pre-disposition detention upon Koreem, as he had already run away once from his foster home and had broken into his foster mother's locked bedroom to steal items belonging to members of his foster family. The detention, the State concludes, served to avoid further delinquent behavior prior to disposition.

We reject the State's claim that Koreem's appeal should be dismissed as untimely. CJP §12-301 authorizes appeals only from "a final judgment entered in a civil or criminal case by a circuit court." Generally, to constitute a final judgment, a trial court's ruling "'must either decide and conclude the rights of the parties involved or deny a party the means to prosecute or defend rights and interests in the subject matter of the proceeding.'" *Schuele v. Case Handyman and Remodeling Services*, *LLC*, 412 Md. 555, 565 (2010) (quoting *Nnoli v. Nnoli*, 389 Md. 315, 324 (2005)). An order that is not a final judgment is an interlocutory order and ordinarily not appealable. *Id.* at 566.

In a juvenile delinquency matter, a ruling at the close of the adjudication hearing does not comprise a final, appealable judgment, "for the matter of the most appropriate disposition still remains to be determined. Only after the determination as to an appropriate disposition is made does the Juvenile Court's action become a final judgment." *In re George V.*, 87 Md. App. 188, 191 (1991).

Because the juvenile court's decision to place Koreem in pre-disposition detention, following the adjudicatory hearing, did not comprise a final judgment, had Koreem appealed immediately from that order (which he did not),[5] the State likely would have argued the appeal was taken from an interlocutory order and should be dismissed. And, indeed, we would have been required to treat such an appeal as an appeal from an interlocutory order, which is permitted only under three narrow exceptions to the final judgment rule (none of which appears to confer appellate jurisdiction over this matter), and to dismiss the appeal on that ground.[6] Because Koreem M.'s notice of appeal was filed within 30 days after his disposition rendered the judgment against him final, however, his appeal is timely.

Unfortunately, the timeliness of Koreem's appeal does not preclude its dismissal on the ground of mootness.[7] A case is considered moot when "'past facts and occurrences have produced a situation in which, without any future action, any judgment or decree the court might enter would be without effect.'" *La Valle v. La Valle*, 432 Md. 343, 351 (2013) (quoting *Hayman v. St. Martin's Evangelical Lutheran Church*, 227 Md. 338, 343 (1962)).

[5]As the State points out, neither does it appear from the record before us that Koreem filed a petition for writ of *habeas corpus* challenging the legality of his confinement or restraint, pursuant to Md. Rule 15-303.

[6]The exceptions to the final judgment rule are: "'appeals from interlocutory orders specifically allowed by statute; immediate appeals permitted under Maryland Rule 2-602; and appeals from interlocutory rulings allowed under the common law collateral order doctrine.'" *Schuele*, 412 Md. at 566 (quoting *Addison v. Lochearn Nursing Home, LLC*, 411 Md. 251, 274 (2009)).

[7]Md. Rule 8-602(a)(10) permits this Court, by motion or on its own initiative, to dismiss an appeal when a case has become moot. *Prince George's Cnty. v. Columcille Bldng. Corp.*, 219 Md. App. 19, 25 (2014).

On June 25, 2014, the juvenile court placed Koreem in detention pending disposition on July 14, 2014. Although Koreem and the Department of Juvenile Services argued against the detention, the court affirmed the pre-disposition detention. At the July 14, 2014 disposition hearing, however, the court released Koreem from detention, and placed him on probation, which permitted him to attend the college preparedness course the pre-disposition detention allegedly would have precluded.

Following the July 14, 2014 hearing, then, Koreem's pre-disposition detention was no longer the "operative order" addressing his disposition. *See In re Julianna B.*, 407 Md. 657, 664 (2009). And, at that point, there was "'no longer an existing controversy between the parties, so there is no longer any effective remedy which the court can provide.'" *State v. Peterson*, 315 Md. 73, 80 (1989)(quoting *Attorney General v. Anne Arundel County School Bus Contractors Ass'n*, 286 Md. 324, 327 (1979)); *see also Suter v. Stuckey*, 402 Md. 211, 219 (2007)(Once a protective order expired, it was not modifiable by the Court, and there was "no possible relief that could be granted. This appeal is therefore moot."). In other words, there is no remedy we can fashion that would provide Koreem any redress he has not already received. Therefore, his appeal is moot and must be dismissed.

APPEAL DISMISSED AS MOOT; COSTS TO BE PAID BY APPELLANT.