

PENAL INSTITUTIONS: Hopless incorrigibles who disrupt the system and government of the State Industrial school may be returned to the sentencing court's jurisdiction for other orders.

September 1, 1937.

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Honorable George D. Bryant
Chairman, Pardon and Parole Board
Jefferson City, Missouri

Dear Sir:

We have your request for an opinion, dated August 24, 1937, which reads as follows:

"Re: Annabelle Dudley - Chillicothe

"Mrs. Kitty Shepherd Griesser writes the Penal Board concerning the above named inmate of the Industrial Home for Girls as follows:

" 'I have another matter that is very discouraging. We have a girl here named Annabelle Dudley, sentenced to this home March 19th, 1934 from Livingston County, sentenced until she is 21 years of age, which will be 1940. When I came here I was informed that she was a very obstreperous girl, a bad influence for all the rest of the girls and to prepare for all sorts of trouble from her.

" 'I have been here five months and I find that this girl is most incorrigible and all that the word implies. I have tried kindness. I have placated her. On August 18th she had disrupted the whole cottage to the extent of having to put her in a straight jacket. In my opinion the only word that would describe this girl's influence is sinister. She has been a disrupting influence and caused no end of trouble in every

place we have put her. Frankly I feel that this girl is a born criminal and I believe that she is a dangerous influence for the new girls that are coming in. Is there any way that I could have her transferred to the women's prison in Jefferson City? I have reviewed her history and her record and from the advent of her coming to this Institution, she has caused not end of trouble.'

"Does the Penal Board have authority to transfer this girl from the Industrial Home for Girls to the Missouri State Penitentiary."

Section 8364 R. S. Mo. 1929, provides:

"All commitments to the industrial home for girls of girls, over the age of twelve and under the age of eighteen shall be made by the juvenile division of the circuit court. Every girl over the age of twelve years and under the age of twenty-one years, who shall be convicted of any offense not punishable with imprisonment for life, or whose associations are immoral or criminal, or bad and vicious, or who is incorrigible to such an extent that she can not be controlled by her parents or guardian in whose custody she may be, may be sentenced to said industrial home until she shall reach the age of twenty-one years, if the court or magistrate before whom such conviction shall be had deems the girl so convicted a fit subject to be committed to said home, and the age of the girl so committed to be indorsed on the commitment in case any such

child is under twelve years of age the same to be placed under the control of the state board of charities and corrections, as provided by article 1, chapter 90, R. S. 1929."

Section 8367 R. S. Mo. 1929, provides:

"No court or magistrate shall sentence any neglected or dependent girl to said institution, or any girl who is insane or idiotic, or afflicted with an incurable disease or encephalitis, or who is so incorrigible that, in the opinion of the officer sentencing her, there is not a fair possibility of her reformation."

Section 8368 R. S. Mo. 1929, provides:

"The officer in charge of the institution, by and with the written consent of the president of said board, shall be authorized and empowered to return whence she came any girl who shall be found to be incorrigible or an improper subject for admission; and thereupon the court or magistrate by whom the said girl was committed, or his successor in office, shall have power to pass such sentence as would have been legal in the first instance if said girl had not been sent to said industrial home."

CONCLUSION.

The legislative purpose of the State Industrial Home for girls is to confine, away from hardened criminals, young girls found to be incorrigible and immoral,

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at the same time found guilty of an offense not punishable with imprisonment for life, or found guilty of a misdemeanor, and to reform girls. It was not intended by the Legislature as a sanctuary for hardened criminals of the female sex.

The Legislature realized that inmates in the State Industrial Home for girls, through oversight or misinformation, or in the natural dissipating processes of nature may be discovered committed to the Industrial Home for girls and at the same time be hardened criminals with no hope of reformation.

The jurisdiction of any Circuit Court to commit any incorrigible to the State Industrial School for girls is found in Sections 8364 and 8367, supra. Your description of the girl indicates that by her conduct she was not eligible for commitment in the first place, and that the trial judge was mistaken in his original opinion that there was a fair possibility of her reformation.

Pursuant to Section 8368, supra, after first obtaining the written consent of the Board of Pardons and Paroles, you have the statutory authority and power to return the girl, as hopelessly incorrigible and an improper subject for commitment, to the custody of the sheriff of the county in which the girl was originally committed, to be dealt with according to law. We know of no way for you to transfer her to the Women's Prison in Jefferson City, as suggested in your letter.

Respectfully submitted

WM. ORR SAWYERS
Assistant Attorney General.

APPROVED:

J. E. TAYLOR
(Acting) Attorney General.

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