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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re DESMOND D., a Person Coming
Under the Juvenile Court Law.

THE PEOPLE,
Plaintiff and Respondent,
v.
DESMOND D.,
Defendant and Appellant.

A129443

(Alameda County
Super. Ct. No. SJ07008290)

Seventeen-year-old Desmond D. admitted one count of aggravated assault as charged in a subsequent wardship petition (Pen. Code, § 245, subd. (a)(1); Welf. & Inst. Code, § 602, subd. (a)).¹ After a contested disposition, on August 13, 2010, the juvenile court committed Desmond to a maximum four-year term in the Division of Juvenile Justice (DJJ), formerly California Youth Authority (CYA). Desmond appeals the disposition, claiming abuse of discretion from lack of probable benefit and exclusive reliance on protection of the public. Finding no abuse, we affirm.

I. BACKGROUND

A. Current Offenses

The subsequent petition charged Desmond in five counts for conduct on August 27, 2009, and February 14 and March 17, 2010. His admission was to one count,

¹ All unspecified section references are to the Welfare and Institutions Code.

one of two aggravated assaults on the last date, which was his 17th birthday. All other counts, plus a petition to have him tried as an adult (§ 707), were dismissed on the People's motion, with the facts left open for disposition.

August 27, 2009. Desmond is a known Norteño gang member with the street moniker "Lil Travieso." He was on probation on August 27, and his victim that day was Alejandro S., a 15-year-old member of South Side Riders (SSR), a Sureno gang subset. Desmond was his classmate at Livermore High School, and had been taunting him at school by calling him a derogatory Norteño name for Surenos. The physical attack was unprovoked. Alejandro and SSR friend Erick G. ("Lil Flako") were at railroad tracks on the way home from school around 3:25 p.m. when Desmond, in the company of fellow juvenile probationer Jorge R., knocked Alejandro to the ground with a punch to the face, starting a fist fight, and then ran off. Alejandro later identified Desmond by name, and from a photo lineup, and the petition charged Desmond with simple battery (count 4; Pen. Code, § 242).

February 14, 2010. The next incident, charged as felony possession of stolen property (count 5; Pen. Code, § 496), began with a nighttime report of juveniles breaking into a parked car at a school and park, and fleeing (empty handed) when confronted by onlookers. A checkered backpack found in the park held a live cell phone that displayed Desmond's picture, plus various items often taken in car burglaries, including knives, car keys, a digital camera, a rosary, phone chargers, and sunglasses. Police traced the phone to Desmond's mother, who claimed the backpack was her daughter's. It was after midnight, and Desmond was not there, in violation of a 9 o'clock curfew his mother said he often violated. A probation search of a closet where he kept his things turned up no contraband, but some of the property from the backpack was later identified by the victim of another car burglary in the same area.

Confronted with the matter, Desmond said he never possessed the backpack and was at the movies on February 14 with a girlfriend he would not name. His sister denied the backpack was hers, and the mother confirmed it was not her daughter's. Desmond's friends said he had no girlfriend, and ultimately provided him with no effective alibi.

March 17, 2010. Two charges of aggravated assault (counts 1 and 2; Pen. Code, § 245, subd. (a)(1)) and one of simple assault (count 3; Pen. Code, § 242), each involving distinct victims, involved another after-school attack, this time on March 17, Desmond's 17th birthday. The primary victim was 19-year-old Irvin Lopez, a Del Valle High School student who was at Livermore High School waiting with his Livermore High girlfriend, Itzel H., for a ride home from his mother.

As they stood waiting, Lopez related, three males approached. The shortest one, who Lopez knew as "Desmond," said, "You fucked with my cousin," and felled him with a punch to the face. More than one person then beat and kicked him while he was down, yelling gang slogans like "Puro Norte." Officers found Lopez lying dazed and supine, with blood around him, his mother and others gathered around. He was treated at a hospital for a broken nose and rib pain. Itzel H. identified Desmond from photos as the initial assailant, and witnesses identified "Douglas" as a co-assailant who fled the scene with Desmond. Witnesses also saw females involved in the attack, I.H. saying that one of them had earlier been in a fight with her. Alan Williams, who saw the attack while walking by and tried to intervene, was "kicked at" by some of the assailants to keep him away. In a statement to police days later, Desmond denied any involvement at all, saying he had cut school for his birthday and spent the afternoon at an aunt's house, never going near the school.

B. Prior Delinquency

In June 2007, at age 14, Desmond was arrested for arson of an open field. The matter was diverted with recommended counseling, and he attended just two counseling sessions with his mother before being detained in October 2007 on a six-count original petition charging him with years of sexually molesting his cousin, a boy then half his age. Counts of continuous sexual abuse (Pen. Code, § 288.5), lewd acts (*id.*, § 288, subd. (a)), oral copulation (*id.*, § 288a, subd. (b)(1)), and sodomy (*id.*, § 286, subd. (b)(1)) concerned acts over a two-year period from October 2005 through October 2007—as far back as age 12. Two other counts of lewd acts and oral copulation charged conduct from just September 2007.

Desmond reacted by painting the victim as the aggressor but conceded conduct going back to when the cousin was six years old, and Desmond ultimately admitted both counts of lewd acts. The other counts were dismissed on motion of the district attorney, with facts open and a guidance clinic psychological evaluation ordered for Desmond. Restitution included costs for the victim and his devastated family to relocate.

Reports divulged a dysfunctional family, poor impulse control, brief treatment with Ritalin for attention deficit disorder, claims by Desmond of sexual abuse by an older child at ages five and six, poor-to-failing school grades, extensive school discipline since 2002 for aggressive and disruptive behavior, fighting, bullying and profanity (undivulged by his mother), and admitted Norteño gang membership for the prior year.

Desmond was granted probation in January 2008, with ordered sex offender treatment and no association with Norteño gang members. In-home supervision was inappropriate, and he was placed in a residential sex offender program at Teen Triumph in Stockton. He made only minimal progress there and was expelled in July 2008 for aggressive acts toward other youths. He declined reevaluation for that program and, in August 2008, entered a program at Trinity Youth Services in Sacramento (Trinity)—coincidentally, the same group home where an older brother had gone for drug rehabilitation. The program offered Desmond intensive sex offender treatment, including individual, group, and family therapy. He progressed, and without the use of medication that had been authorized while at Teen Triumph.

Desmond completed the Trinity program, despite peer conflicts and occasional horseplay, like setting off a fire extinguisher. His school grades improved and his mother was supportive and attended sessions. Some backsliding by Desmond caused a month delay in his graduation from the 12-month program, but he was released back to home supervision with his mother on August 21, 2009. An exit report from Trinity stated that he had accepted total responsibility for his acts against the cousin, showed genuine remorse and empathy, and, having completed a behavioral modification program at Trinity known as PAASE, showed appropriate social interests and no sexual interest in children. He was deemed at “low risk” of sexual re-offense.

Six days after Desmond’s release marked the first of the three incidents that fueled the subsequent petition described in part I.A. above. The predicted low risk of *sexual* reoffense would be borne out over the next six months, but he showed unabated violence and gang affiliation, plus theft. Indeed, a guidance clinic report for the earlier petition (the 2007 guidance report), while recommending a well-structured sex offense program, had warned: “[Desmond’s] potential to harm others is relatively high due to his history of fights with peers at school, his reported involvement in the Norteño gang, his arrest for arson, and his 2-year history of child abuse” Similarly, the exit report from Trinity, while predicting a low risk of sexual reoffense, assessed risk in other areas as *moderate* based on a tendency during in the last six months to push limits, defy authority and, when provoked, assault others.

There was also misbehavior beyond what was charged. Desmond attended Livermore High School upon his release, but was transferred to a continuation high school just days before his March 27 assaults. While at Livermore High School, he was truant, suspended for disruption, foul language and not following directions, and totaled three “gang” citations—two with related suspensions—for displaying gang colors and symbols. One of the citations was for going to another campus wearing Norteño red, “to back up a friend,” and he admitted membership in LVM (Livermore Valley Mexicans), a Norteño gang subset. That January, the probation officer also learned from Desmond’s mother and step-father that he was living with his older brother and his brother’s children, in violation of a requirement to reside in the mother’s home. The mother said she “wanted [Desmond] to emancipate himself to relieve her of financial responsibility” She related that, since Desmond’s release from Trinity, he “listens only to what he wants to and follows directions ‘only up to a point.’ ” She “hope[d]” he was not involved in a gang, yet feared, and had been told, that he “idolize[d] other gang members.”

C. Commitment to DJJ

July 30 hearing. A contested dispositional hearing that began on July 30 focused on a dispositional report recommending DJJ, a new guidance clinic report recommending Camp Wilmont Sweeney (Camp Sweeney), plus questions about the adequacy of an

evaluation by an SOS (Screening for Out of Home Services) committee. The court heard testimony from SOS committee member and Camp Sweeney superintendent Wilma Robinson, Deputy Probation Officer Lauren Kerrigan, who authored a dispositional report and a later memorandum, and Supervisor Thomas Graves of the Alameda County Probation Department.

The new guidance report, authored in late April 2010 by Senior Psychiatric Social Worker Parker Chin, built upon much of the material and findings in the 2007 guidance report by Dr. June Martin. Chin also interviewed the mother, who felt hurt and frustrated by Desmond. Having supported him during treatment and heard his promises to change, she found him unchanged, oppositional, and defiant once back home. Desmond had a bad attitude, did not abide by her rules, and came and went as he pleased with little regard for others. The mother saw him as angry, taking his anger out on her, ungrateful, and blaming her for not doing enough for him. She wanted him to get help. Desmond told Chin that he had little or no contact with his biological father, got along well with family, but tended to isolate himself and not listen to his mother when he was angry. He confirmed that he had been diagnosed with attention deficit hyperactivity disorder (ADHD) at age six and was prescribed Ritalin, but said his mother stopped the drug in September 2007 due to his complaints about the side effects. Chin saw too little change in Desmond since the 2007 guidance report to reduce his potential for violence against others. He felt that the potential remained “in the *moderately high* level.”

Addressing causes of the delinquency, Chin wrote: “Dr. Martin reported in 2007 that she felt his behavior was attributable to issues of unresolved depression, grief and his own abuse history ‘as well as his impulsivity and poor judgment related to his ADHD condition rather than anti-social characteristics.’ Now it is 28 months later and Desmond continues to engage in repetitive behaviors where the basic rights of others and societal rules are violated. He has yet to resolve many of his issues of depression, grief and his own abuse history. Those are significant. This clinician believes that if he does not work to resolve those issues then they will continue to contribute to his behavior and it will

have a serious impact on his safety and the safety of the community. At some point he may develop into an anti-social character disorder.”

Elaborating on causes, Chin felt that the “emotional turmoil Desmond experienced as a child in a chaotic family was a contributing factor. His sexual victimization by an older boy while in day care is also very significant. While in treatment he reported he addressed issues of his own victimization. However, this clinician believes it is difficult to determine how much of an impact it has had on him and whether or not he can fully comprehend the emotional and behavioral repercussions of it.” Noting similarity in Desmond’s own abuse and infliction of abuse on the cousin, Chin wrote that some “boy victims will try to recapitulate their own victimization by ‘re-enacting’ their own abuse with themselves as the aggressor to try to gain an understanding of the abuse,” and “will engage in aggressive behaviors to compensate for their feelings of ‘lost’ masculinity and to demonstrate to others that they are not weak or ‘punks’ that can [be] taken advantage of.” Chin felt that this “may have been a major contributor” both to Desmond’s sexually abusive behaviors toward his cousin and to “his current anger and aggressive behaviors.” “At this time,” he continued, “Desmond does not see the connection between his anger and his behavior. He admits it makes him ‘angry and sad’ whenever intrusive thoughts of his own molest come to mind but his way of dealing with those volatile feelings is to ‘push everything aside.’ However, he is not motivated to participate in therapy to work through or resolve those feelings. . . . This clinician believes that any traumas that are not talked out may get acted out and he has yet to talk them out.”

Chin also felt that Desmond’s “anger, trying to re-assert his masculinity, associates with a delinquent oriented peer group and . . . history of assaultive and aggressive behaviors would *increase the violence potential.*” Desmond’s behavior since returning home, he posited, “speaks loud and clear. He is a young man [who] continues to have poor judgment, makes bad decisions, has difficulty controlling his behavior, and has been involved in activities that have posed a danger to the community. He is likely to continue to do so unless he is able to make substantial changes to reduce his impulsivity and the risks he takes.”

Despite his grim view of Desmond's present ability to address the causes of his violence, Chin proposed that "[a] placement such as Camp Sweeney would be suitable for Desmond." Without mentioning DJJ, he called for "a structured, highly supervised program that can provide behavioral modification interventions to help alter his behavior while providing him with individual and family therapy. While in this setting he should be drug and alcohol free."

The April 26 dispositional report by Kerrigan, created as Chin prepared the 2010 guidance report, took the view that DJJ was the appropriate placement. It related information from the mother that Desmond was out of control and needed help. Kerrigan's interview with Desmond elicited his admission that he was involved in the March 17 assault, but he claimed that he did not know Lopez beforehand and " 'started going at it' " with him after he saw Lopez punch his cousin Janette twice in the face, slap her, and throw her to the ground. He claimed not to know that Lopez was injured. Despite his prior admissions of gang membership, Desmond now claimed he was not involved in a gang but was " 'related' to people who are Norteño, specifically his cousin"; he and his mother, he said, had moved "in an effort to dissociate with Norteño members." He recalled being prescribed Ritalin two years earlier, taking it for two or three months, and stopping "after he 'started calming down.' "

Summarizing the delinquent history, Kerrigan recommended DJJ, writing, "The minor has clearly shown he not only cannot remain law abiding while in the community [but] continues to commit very serious and violent crimes, crimes causing injury to others." An assessment using an actuarial measure of risk for recidivism placed him "in the High Category for re-offending within the next year," his greatest risks being in the education/employment, personality/behavior, family/parenting, and attitudes/orientation. Addressing these issues will be part of the supervision plan for this minor."

Kerrigan stated that Desmond had been screened by the SOS committee, which found that DJJ was the most suitable program for placement. She also recounted a screening with Ms. Erin Peel of DJJ, who stated that a sustained aggravated assault charge would be "a Category 4 offense" resulting in a two year "baseline parole

consideration date.” At DJJ, Desmond “would be taken to the intake unit for a battery of assessment tests to include Cal Yasa to determine the minor’s risks and needs and to develop an ongoing case plan. He would be assessed to determine any mental health needs and placed in educational[ly] appropriate classes. He would also be enrolled in a treatment program for under 18 sex offenders.” Desmond’s total aggregate term exposure for the current and past offenses was 11 years.

A May 5 memorandum by Kerrigan confirmed the DJJ recommendation, advising that Paul Dudley, admissions manager for the Nevada program Rites of Passage (ROP), had told her that Desmond had been rejected for the program both because he needed a higher level of treatment than they provided and because his prior sexual offenses made him inappropriate for the Nevada program’s setting on tribal land.

In hearing testimony, Kerrigan clarified that: the screening by SOS referred to in her initial report was just a telephone call of 15 to 20 minutes with Sheri Guzman, not with other SOS members; Kerrigan had not spoken with any camp official, like Wilma Robinson; and Kerrigan had not yet read the guidance report from Chin (recommending Camp Sweeney) when she wrote that report or her later memorandum. She said she had been assigned by a supervisor to write the report on an expedited basis, due to time limitations, during the absence of a supervising deputy who ordinarily would have done it.

Robinson, SOS member and Camp Sweeney superintendent, testified that the screening took place on April 27. If ordered by the court to take Desmond into the camp, she would, and they had a school, drug education services, counseling services, an aggression replacement group, Boy Scouts, vocational training, and various other programs. She was concerned, however, about Desmond being beyond the control of the parents and family, and acting out in the community. The camp was “an open setting”—a structured, open residential facility—that provided education services and programming. It had “a six-month basic program for youth between the ages of 15 and 18.” She found Desmond suitable under camp admission criteria, in that he could benefit from the school, counseling, vocational training and structured—though not secure—

environment. Her concerns against admission were his escalating history of physical aggression, gang affiliation, and past arson. This could make it difficult to manage him and could have an impact on other youths there, some of whom had gang affiliations. Nothing had indicated an AWOL history or runaway risk in Desmond, but the camp setting being open was always a concern. Those without AWOL histories often went AWOL from the camp.

Thomas Graves testified that he never attended SOS committee meetings but had passed along to Robinson, with email correspondence, a packet of material on Desmond's case, with specific questions from the court.

The court heard lengthy arguments and rendered an extensive oral ruling that need not be recited in full. Concerned in particular with an SOS committee decision that had seemingly taken place with minimal committee participation, and with a Camp Sweeney assessment that may have relied on the sex offenses as matters of eligibility rather than appropriateness, the court chose DJJ but took the extraordinary step of staying its commitment to allow the SOS committee to make a fuller consideration, with access to input from counsel.

August 13 hearing. The hearing resumed on August 13. By then, a further memorandum of August 10 from Kerrigan related that the SOS committee, this time eight strong and with herself and defense counsel attending, had met and adhered to its original decision for DJJ. An attached written decision read: "Minor has continued to behave in a criminally violent [manner] beginning only days after he was reunified with family following successful completion of a sex offender program. His most recent battery was gang related and extremely violent, causing serious injury to the victim. The recent Guidance Clinic evaluation places the minor at moderately high risk to behave violently and recidivate, and recommends a highly structured therapeutic setting. The only setting that can protect [the] community safely while at the same time meet the minor's needs for therapeutic treatment is DJJ." Also, in a further screening for Camp Sweeney, Robinson had rejected Desmond as eligible, but not appropriate.

The parties commented on the developments but advocated for their original positions. The court was satisfied overall with the further considerations and ruled: “[A]lthough [the guidance clinic report] does recommend the camp, [it] also pointed out some major issues especially around institutional security that concerned the court. I think I said that before on at least a couple of occasions. And I have reviewed his history. And the fact is that I think given, the situation that the original decision that I stayed is probably correct, that he should be committed to [DJJ] at this time.”

The court found it probable that Desmond would benefit from commitment to DJJ. Exercising its discretion in Desmond’s favor in setting a maximum period of confinement (§ 731, subd. (c)), and noting the successful completion of the sex offender program and low risk of re-offense in that respect, the court used just the new aggravated assault, for four years (less 143 days credits), and chose not to aggregate another eight years for the prior lewd-act offenses. It set placement review for two weeks hence.

II. DISCUSSION

We review the commitment decision for abuse of discretion and indulge all reasonable inferences in favor of the decision. (*In re Angela M.* (2003) 111 Cal.App.4th 1392, 1396; *In re Michael D.* (1987) 188 Cal.App.3d 1392, 1395.) Before 1984, the purpose of juvenile law was rehabilitation and treatment, not punishment. (*In re Aline D.* (1975) 14 Cal.3d 557, 567.) However, 1984 amendments to juvenile law instituted an increased emphasis on punishment as a tool of rehabilitation, as well as concern for safety of the public. (*In re Asean D.* (1993) 14 Cal.App.4th 467, 473; § 202.) Still, “[b]ecause commitment to [DJJ] cannot be based solely on retribution grounds (§ 202, subd. (e)(5)), there must continue to be evidence demonstrating (1) probable benefit to the minor and (2) that less restrictive alternatives are ineffective or inappropriate.” (*In re Michael D.*, *supra*, 188 Cal.App.3d at p. 1396; *In re Angela M.*, *supra*, 111 Cal.App.4th at p. 1396; § 734.) DJJ commitment may be made without prior resort to less restrictive placements. (*In re Eddie M.* (2003) 31 Cal.4th 480, 507; *In re Angela M.*, *supra*, at p. 1396.)

In determining the disposition for a ward, “the court shall consider, in addition to other relevant and material evidence, (1) the age of the minor, (2) the circumstances and gravity of the offense committed by the minor, and (3) the minor’s previous delinquent history” (§ 725.5). And no ward shall be committed to DJJ “unless the judge of the court is fully satisfied that the mental and physical condition and qualifications of the ward are such as to render it probable that he will be benefited by the reformatory educational discipline or other treatment provided by [DJJ]” (§ 734).

Faced with a record showing increasingly violent criminality after multiple less restrictive out-of-home alternatives were tried, and with a record showing that placement back home was not a viable option, Desmond resorts to the argument that no substantial evidence supports probable benefit from DJJ. His argument is, that given the limited options available to the court, Camp Sweeney was more appropriate than DJJ. We find no abuse of discretion.

First, it is not clear what Desmond hopes to gain by this argument now, on appeal. At disposition, he was seven months shy of his 18th birthday. Camp Sweeney offered a six-month program for wards between ages 15 and 18. Desmond turned 18 years old in March 2011, before the briefing on this appeal was complete, and to reverse and remand now would leave no apparent option but DJJ. Desmond does not address this.

Second, the court considered Camp Sweeney in depth, including a second time after evidence about initial screenings by the camp and probation raised concerns with the procedure. Desmond argues that the court failed to consider whether DJJ fit his rehabilitative needs given his *particularized circumstances*, and by this he means a chance that his violence, depression, ADHD, and anxiety were continuing effects of his being sexually abused by an older child at the age of five or six years old.

One problem with this argument is that, while it is based on silence of the court on those matters, the court was not required to express its reasons. (*In re Ricky H.* (1981) 30 Cal.3d 176, 183-184; *In re Jose R.* (1983) 148 Cal.App.3d 55, 59-61.) “There is no requirement that the court find exactly how a minor will benefit from being committed to DJJ. The court is only required to find if it is probable a minor will benefit from being

committed, and the court did so in this case.” (*In re Jonathan T.* (2008) 166 Cal.App.4th 474, 486.) The requirement on review is that substantial evidence shows probable benefit (*ibid.*), and this highlights a second problem with Desmond’s argument. Nowhere does his briefing cite to the 2010 guidance report by Chin, which was before the court. We have set out in this opinion a long passage in which Chin addresses the causes of Desmond’s delinquency. Chin notably deemed the prior abuse “very significant,” adding, “While in treatment [Desmond] reported he addressed issues of his own victimization. However, this clinician believes it is difficult to determine how much of an impact it has had on him and whether or not he can fully comprehend the emotional and behavioral repercussions of it.” Chin particularly connected that abuse with the abuse Desmond later inflicted on his younger cousin, and then advised: “At this time, Desmond does not see the connection between his anger and his behavior. He admits it makes him ‘angry and sad’ whenever intrusive thoughts of his own molest come to mind but his way of dealing with those volatile feelings is to ‘push everything aside.’ However, he is not motivated to participate in therapy to work through or resolve those feelings. . . . This clinician believes that any traumas that are not talked out may get acted out and he has yet to talk them out.” Thus Desmond is incorrect in claiming that the record shows no consideration of or prior treatment for such effects.

Also, Kerrigan’s dispositional report specified that at DJJ Desmond “would be taken to the intake unit for a battery of assessment tests . . . to determine the minor’s risks and needs and to develop an ongoing case plan. He would be assessed to determine *any mental health needs* and placed in educational[ly] appropriate classes. He *would also be enrolled in a treatment program for under 18 sex offenders.*” (Italics added.) Thus there is no merit to Desmond’s claims that his prior sexual abuse would not be addressed in DJJ as a rehabilitative need.

Further safeguarding the need for probable benefit, as the court was presumably aware, a ward cannot be accepted unless the Chief Deputy Secretary for DJJ “believes that the ward can be materially benefitted by the division’s reformatory and educational discipline, and if the division has adequate facilities, staff, and programs to provide that

care.” (§ 736.) A juvenile court’s order of commitment to DJJ thus is often, as here, intermediate, with the court required to review the case at least every 15 days pending word of the ward’s acceptance. (§ 737, subs. (a)-(b).) The order here was for a review in two weeks, and nothing indicates that Desmond was not accepted.

Our discussion above also refutes Desmond’s notion that the court impermissibly sent him to DJJ *solely* out of concern for public safety. Nor does it appear that the court used DJJ for retribution. Making a ward accountable through sanctions, specifically a commitment to DJJ, is deemed to be rehabilitative. (§ 202, subs. (b), (d)-(e).) The only qualification is that “retribution” is not deemed rehabilitative (*id.*, subd. (e)(5)).

We also presume that the court knew and applied the correct statutory and case law when it made its decision. (*People v. Coddington* (2000) 23 Cal.4th 529, 644; *Ross v. Superior Court* (1977) 19 Cal.3d 899, 913-914.) And each of the three factors set out in section 725.5 is supported: (1) At age 17 and five months, Desmond’s *age* made him DJJ appropriate. With his long history of gang affiliation and increasing violence, he was not an unsophisticated, callow youth apt to be corrupted by hardened wards. (*In re Teofilio A.* (1989) 210 Cal.App.3d 571, 577.) (2) The circumstances and gravity of the offense show callous indifference to aggravated violence that the court could reasonably deem unprovoked and gang motivated. (3) His long delinquent history was broken only by the time he spent in the second of two sex offender programs, and resumed within days of his release back into the community.

Finally, the guidance report by Chin stressed that Desmond was not ready to confront the causes of his violence or address them in therapy, which further supports DJJ. A camp commitment would allow jurisdiction over Desmond only to age 21 (§ 607, subd. (b)), less than the four-years set by the court, whereas DJJ allowed jurisdiction up to age 25 (§§ 607, subd. (c), 607.1 [criteria for retaining jurisdiction]).

III. DISPOSITION

The judgment is affirmed.

Richman, J.

We concur:

Haerle, Acting P.J.

Lambden, J.