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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

In re R.O., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

R.O.,

Defendant and Appellant.

A132676

(Contra Costa County
Super. Ct. No. J1100488)

Defendant and appellant R.O. appeals from a disposition order made after he pleaded no contest to attempted premeditated murder (Pen. Code, §§ 187, 664, subd. (a)),¹ with enhancements for personal use of a deadly weapon (knife) (§ 12022, subd. (b)(1)) and infliction of great bodily injury (§ 12022.7, subd. (b)), and second degree robbery (§§ 211, 212.5, subd. (c)), with personal use of a deadly weapon (§ 12022, subd. (b)(1)), and criminal street gang enhancements (§ 186.22, subd. (b)(1)). The juvenile court committed defendant to the Division of Juvenile Facilities (DJF) for the maximum term of confinement of life plus 19 years 8 months. Defendant contends the prosecutor engaged in prejudicial misconduct during the dispositional hearing, the juvenile court committed reversible error by failing to check item 8.b on the Judicial Council Form JV-732, and his counsel rendered ineffective assistance of counsel by failing to advocate for

¹ All further statutory references are to the Penal code unless otherwise indicated.

a lesser maximum term. He also contends the record does not support a commitment to DJF. We conclude there was no reversible error or abuse of discretion, and affirm the disposition order.

BACKGROUND

We recite only the facts relevant to the issue before us.² (See *People v. Garcia* (2002) 97 Cal.App.4th 847, 850, fn. 1.)

On March 15, 2011, at approximately 5:00 p.m., defendant and another juvenile, both of whom were 16 at the time, exited a bus and followed a juvenile listening to an iPod. As the bus pulled away, defendant pushed the juvenile with the iPod against a wall and a trash can. Defendant wore a red glove and was holding a screwdriver. He jabbed the screwdriver under the juvenile's rib cage, demanded the juvenile hand over the iPod, threatened to stab him if he did not, and then reached into the juvenile's pants pocket and took the iPod. Defendant and the other juvenile, who had been standing by, then walked away.

The following evening, on March 16, 2011, at approximately 9:30 p.m., San Pablo police officers were dispatched to the scene of a reported stabbing. When they arrived, they found Eddie Lucas lying in the street, bleeding from several stab wounds in his back. An acquaintance of Lucas's, Wayne Preston, told the officers Lucas had been accosted by two males, one of whom choked Lucas from behind, while the other stood by. Lucas and Preston attempted to walk away, but defendant and the other male yelled, " 'You can't leave! We'll stab you!' " Preston saw both had knives, and he and Lucas began running. Lucas fell, and defendant and the other male stood over him, swinging their knives and using profanities. Preston tried to intervene, but was threatened by defendant and the other male. After some hesitation, defendant stabbed Lucas two to four times. Preston begged the two to stop, and was finally able to drag Lucas away. As defendant and the other male ran off, they shouted, "Ñorte" several times. The officers

² Because defendant pleaded no contest before trial, the facts are taken from the probation report.

found two cell phones in the area, one of which belonged to defendant. He was arrested the following day at a high school.

Defendant initially denied stabbing Lucas. After being confronted with other evidence, he told the officers he and the other male had walked up to the victims, stated they were “ ‘[f]rom the north’ ” and were going to “ ‘[b]ring something out for them.’ ” He claimed the stabbing was in self-defense because he thought the victims had a gun, although he admitted he had not seen one. He also admitted stabbing Lucas with a screwdriver, including when Lucas had fallen and was “dragging himself” on the ground. Defendant thought he dropped the screwdriver when he jumped over fences fleeing and said he had carried a screwdriver to break into school lockers. Defendant also admitted he and a friend had robbed a “good kid” of an iPod.

The officers interviewed Lucas several days after the attack. Lucas remembered one of the suspects wore a red beanie, red gloves and possibly red shoes. Lucas feared they would kill him. In addition to the stab wounds, Lucas suffered a punctured lung and spinal cord damage, and was paralyzed from the waist down. He was hospitalized for three weeks. He had been employed by Macy’s, but after the attack was unable to work and had no other means to support himself.

On March 21, 2011, the Contra Costa District Attorney filed a Welfare and Institutions Code section 602 petition alleging defendant committed attempted premeditated murder (Pen. Code, §§ 187, subd. (a), 664, subd. (a)), with enhancements for personal use of a deadly weapon (knife) (§ 12022, subd. (b)(1)) and infliction of great bodily injury (§ 12022.7, subd. (b)), second degree robbery (§§ 211, 212.5, subd. (c)), with personal use of a deadly weapon (§ 12022, subd. (b)(1)), and criminal street gang enhancements (§ 186.22, subd.(b)(1)). Prior to the jurisdictional hearing, the prosecution moved to have defendant declared unfit for adjudication in juvenile court.

On April 26, 2011, pursuant to a negotiated disposition, defendant pleaded no contest to the charges and enhancement allegations. The prosecution, in turn, withdrew the fitness motion. On May 17, 2011, the juvenile court committed defendant to DJF for

the maximum term of confinement of life plus 19 years 8 months, with credit for 62 days' time served.

DISCUSSION

Prosecutorial Misconduct

Defendant contends the prosecutor committed prejudicial misconduct during the dispositional hearing in asserting defendant had "severed" Lucas's spinal cord, thereby implying Lucas had no hope of recovering. Defendant maintains the evidence was that Lucas had suffered only "spinal shock," which is a condition from which he may recover. In support of this argument, defendant asks that we take judicial notice of a "scholarly article, *Spinal Shock Revisited; a Four Phase Model.*" Defendant also complains the prosecutor argued, without any evidence in support, that Lucas was stabbed because he was trying to protect a "bum" from being bothered by defendant and the other juvenile, and that defendant stabbed Lucas seven to nine times. The evidence, says defendant, was that he merely spoke to the "bum," and stabbed Lucas only "two to four times."

To begin with, defendant made no objection to the prosecutor's arguments and thus waived any claim of prosecutorial misconduct on appeal. (*People v. Redd* (2010) 48 Cal.4th 691, 734 ["'To preserve a claim of prosecutorial misconduct for appeal, a defendant must object and seek an admonition if an objection and admonition would have cured the harm.'"]; *People v. Dykes* (2009) 46 Cal.4th 731, 773 ["Because there was no objections to these comments, this claim is forfeited."].)

Nor was there any prejudicial prosecutorial misconduct. "Prosecutors have wide latitude to discuss and draw inferences from the evidence at trial." (*People v Bennett* (2009) 45 Cal.4th 577, 615.)

The probation report stated the stabbings had caused the "puncturing [of Lucas's] lung and damaging his spinal cord resulting in paralysis" and that Lucas is "physically disabled for life." Lucas also submitted a victim's statement in which he said: "This crime has left me paralyzed from the waist down. I cannot use my legs anymore. I used to be the arms and legs for my Mom and Dad, especially for my Dad who has M.S.

This is a sinceless [*sic*] tragedy. Spinal cord injury wheel chair bound. . . .” Lucas’s mother similarly stated: “My son is paralyzed from the waist down.”

Several times, the prosecutor referred to Lucas as being paralyzed, and at one point described the stabbings as “severing” his spinal cord. Given the record, the prosecutor’s use of the word “severed” was a fair inference. (See *People v. Bennett, supra*, 45 Cal.4th at p. 617.) And even if it was not, this single descriptor did not amount to prejudicial misconduct. (See *People v. Redd, supra*, 48 Cal.4th at pp. 733-734 [prosecutorial misconduct violates Constitution only when it so egregious it infects the trial with such unfairness as to make the conviction a denial of due process, and is misconduct under state law only if it involves deceptive or reprehensible conduct].)³

As for the number of stabbings, the probation report stated the police observed Lucas had been stabbed “several times in his back,” and Preston reported seeing the assailants stab Lucas “two to four times *each*.” (Italics added.) Again, given the record, the prosecutor’s reference to “seven to nine stabbings” was a fair inference, and certainly not a sufficiently egregious overstatement to constitute misconduct.

The prosecutor’s argument that Lucas and Preston told defendant and his accomplice to “stop hassling the bum at the door,” however, was an overstatement. The only mention of a “bum” in the probation report was Preston’s statement to police that when he and Lucas exited the store they were in, they noticed defendant and the other juvenile “talking” with a “bum.” Defendant then ran up to Lucas and started choking him, while the other juvenile stood next to Lucas. However, given the entirety of the record, the prosecutor’s one unsupported assertion does not rise to the level of prejudicial misconduct. (See *People v. Bolton* (1979) 23 Cal.3d 208, 214 [even serious misconduct was not sufficient to merit reversal because it was not reasonably probable a more favorable result would have occurred absent the prosecutor’s comments].) Indeed, the juvenile court had the probation report before it, as well as the victim statements and

³ We deny defendant’s request for judicial notice.

other testimony. There is no probability the outcome would have been any different had the prosecutor not overstated the evidence about the “bum.”

Commitment to DJF

In *In re Carl N.* (2008) 160 Cal.App.4th 423, 431-433 (*Carl N.*), the Court of Appeal provided a concise overview of the standard of review applicable to a commitment to DJF: “The decision of the juvenile court to commit a juvenile offender to CYA⁴ may be reversed on appeal only by a showing that the court abused its discretion. (*In re Michael D.* (1987) 188 Cal.App.3d 1392, 1395) ‘[D]iscretion is abused whenever the court exceeds the bounds of reason, all of the circumstances being considered.’ (*People v. Giminez* (1975) 14 Cal.3d 68, 72) [¶] As the court explained in *In re Michael D.*, *supra*, 188 Cal.App.3d at page 1395, ‘[a]n appellate court will not lightly substitute its decision for that rendered by the juvenile court. We must indulge all reasonable inferences to support the decision of the juvenile court and will not disturb its findings when there is substantial evidence to support them. [Citations.] In determining whether there was substantial evidence to support the commitment, we must examine the record presented at the disposition hearing in light of the purposes of the Juvenile Court Law.’ ” (*Carl N.*, at pp. 431-432.)

“The statutory declaration of the purposes of the juvenile court law is set forth in [Welfare and Institutions Code] section 202. (10 Witkin, Summary of Cal. Law (10th ed. 2005) § 442, pp. 551-552.) Before the 1984 amendment to section 202, California courts consistently held that ‘ “[j]uvenile commitment proceedings are designed for the purposes of rehabilitation and treatment, not punishment.” ’ (*In re Michael D.*, *supra*, 188 Cal.App.3d at p. 1396, quoting *In re Aline D.* (1975) 14 Cal.3d 557, 567) California courts treated a commitment to CYA as ‘the placement of last resort’ for juvenile offenders. (*In re Michael D.*, *supra*, 188 Cal.App.3d at p. 1396.) [¶] However, ‘[i]n 1984, the Legislature replaced the provisions of section 202 with new language

⁴ Effective July 1, 2005, the CYA was redesignated the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. (Welf. & Inst. Code, § 1710, subd. (a).)

which emphasized different priorities for the juvenile justice system.’ (*In re Michael D.*, *supra*, 188 Cal.App.3d at p. 1396, citing Stats.1984, ch. 756, §§ 1, 2, pp. 2726-2727.) Section 202, subdivision (b) (hereafter section 202(b)) now recognizes punishment as a rehabilitative tool. (*In re Michael D.*, *supra*, 188 Cal.App.3d at p. 1396.) That subdivision provides in part: ‘Minors under the jurisdiction of the juvenile court who are in need of protective services shall receive care, treatment, and guidance consistent with their best interest and the best interest of the public. Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances. *This guidance may include punishment that is consistent with the rehabilitative objectives of this chapter.*’ (§ 202(b), italics added.)” (*Carl N.*, *supra*, 160 Cal.App.4th at p. 432.)

“ ‘Section 202 also shifted its emphasis from a primarily less restrictive alternative approach oriented towards the benefit of the minor to the express “protection and safety of the public” [citations], where care, treatment, and guidance shall conform to the interests of public safety and protection. [Citation.]’ (*In re Michael D.*, *supra*, 188 Cal.App.3d at p. 1396.) ‘Thus, it is clear that the Legislature intended to place greater emphasis on punishment for rehabilitative purposes and on a restrictive commitment as a means of protecting the public safety.’ (*Ibid.*) It is also clear, as the Court of Appeal recognized in *In re Asean D.* (1993) 14 Cal.App.4th 467, 473 . . . , that a commitment to CYA ‘may be made in the first instance, without previous resort to less restrictive placements.’ ” (*Carl N.*, *supra*, 160 Cal.App.4th at pp. 432-433.)

“ ‘This interpretation by no means loses sight of the “rehabilitative objectives” of the Juvenile Court Law. [Citation.] Because commitment to CYA cannot be based solely on retribution grounds [citation], there must continue to be evidence demonstrating (1) probable benefit to the minor and (2) that less restrictive alternatives are ineffective or inappropriate. However, these must be taken together with the Legislature’s purposes in

amending the Juvenile Court Law.’ (*In re Michael D.*, *supra*, 188 Cal.App.3d at p. 1396.)” (*Carl N.*, *supra*, 160 Cal.App.4th at p. 433.)

Defendant contends his commitment to DJF was solely for retribution for his criminal conduct and there is no evidence of any probable benefit to him or that a less restrictive alternative would be ineffective or inappropriate. He contends the juvenile court focused solely on the victims and paid no attention to his rehabilitation needs.

At the plea hearing, the juvenile court specifically asked the probation department to screen defendant for less restrictive alternatives, including Fouts Springs, Bar-O Ranch and YOTP (Youth Offenders Treatment Program). The court had the benefit of the probation report for disposition.

The report describes a sad and disturbing situation. Defendant had no prior criminal background and apparently first became involved in criminal activity when he joined a gang four or five months earlier in order to “fit in” and “be cool.” He had a stable home life with both parents, but was failing most of his school classes, in part because of severe tardiness or absenteeism. He admitted to drinking nearly every day, using marijuana once or twice a week, and often also used MDMA. Even after his plea, he did not tell his parents the truth about his involvement in the crimes, in part because of his mother’s failing health. He declined to talk about the details of the stabbing because it “haunts” him and thinking about it “makes him sick to his stomach.” He “prays” the victim will walk again and is “distraught” at the pain he has also caused his own mother. His father was “shocked” by his son’s arrest and, as of the time of his interview with probation, continued to believe in his innocence since defendant had not told his parents what he had admitted to probation.

Despite defendant’s apparent remorsefulness and desire to distance himself from gang activity, probation recommended “the minor be committed to DJ[F], maximum term, LIFE.” It reported Bar-O had rejected him because of the gravity of his offenses and he needed a more restrictive environment. Fouts similarly stated that given its open setting, it was an inappropriate placement due to the nature of his crimes. A screening for YOTP reached the same conclusion for essentially the same reasons. “The minor’s

actions indicate he is in need of a higher level of security and intervention than what can be provided at the local level.” A placement in DJF, in contrast, would be appropriate because of the nature of the facility and structure of its program, including counseling, gang intervention services, and anti-recidivism efforts. He would also be in school six hours a day. In sum, defendant would be in a “secure, highly structured and closely supervised environment.” He would have the benefit of extensive counseling and the opportunity to complete his high school education.

After listening to statements on behalf of the victims and also on defendant’s behalf by his sister,⁵ and the arguments of counsel, the court thoughtfully recited its disposition: “This is a very sad situation. It’s tragic. [¶] [R.O.] had you thought before you made the choice to hang out with gang members, to use drugs, to drink, this could have been avoided. This is, I agree, absolutely nonsensical. [¶] You acted with hatred that day and there are victims suffering because of your actions. [¶] I do not believe YOTP has the resources to truly rehabilitate you. This is beyond YOTP, and I’m going to adopt the recommendations in this [probation] report. [¶] I’m glad that [Lucas, his] family [and] Mr. Preston, are here. I am glad [the robbery victim and his] mother are here. I hope their comments, I hope you listened carefully to them. I believe that’s part of your rehabilitation to hear from the victims and what your actions caused them. [¶] I’m going to adjudge you a minor ward of the court with no termination date. . . . [¶] I am going to commit you to the Division of Juvenile Facilities for the maximum term of life. You will get credit for time served for 62 days.”

At the conclusion of the hearing, the court summarized its findings: “As I indicated already, I am finding that local resources are inappropriate to truly rehabilitate the minor in this matter, [R.O]. [¶] The mental and physical conditions and qualifications of the minor are such as to render it probable that he will be benefited by the reformatory educational discipline or other treatment provided by the Division of Juvenile Facilities.” And in closing, the court once again expressed its sorrow to the families present, which

⁵ Defendant notes only the statements made on behalf of the victims and ignores the poignant statement made on his behalf by his sister.

included defendant's family: "To the families that are here, I am so sorry for what happened. I know it's not my responsibility but I really do feel very, very badly for you all and I'm sorry that this ever happened. I wish it just had never happened."

At the time of the court's disposition order, defendant was 16 years old and had become embroiled in very serious criminal gang behavior. The DJF would provide him with "a secure, highly structured and closely supervised environment." It would provide him with extensive counseling, including in connection with gangs and substance abuse issues. It would also provide him with the opportunity to complete his high school education. Other, less restrictive placements were investigated, but were determined to be inappropriate. This is sufficient to demonstrate probable benefit of a DJF commitment.⁶

It is true defendant had no prior criminal history. But a DJF commitment need not be a last resort. (*Carl N.*, *supra*, 160 Cal.App.4th at pp. 432-433; *In re Asean D.*, *supra*, 14 Cal.App.4th at p. 473.) The court found defendant's offenses were extremely serious—terrorizing to his victims, both of whom remained traumatized and one profoundly disabled. The juvenile court was well within its discretion in determining this criminal conduct warranted commitment to DJF.

In sum, the record does not indicate an abuse of discretion on the part of the juvenile court. To the contrary, it demonstrates a thoughtful assessment by the court. The record demonstrates there are probable benefits associated with a DJF commitment

⁶ Defendant complains the probation report did not provide sufficient detail about his emotional and mental state, e.g., no investigation of his "psychological condition," no determination as to "why" he committed the crimes, no investigation of his substance abuse, and no determination as to whether he was "actually" a gang member. Defendant cites no authority suggesting, let alone, requiring a probation report to include such detailed psychological analyses. Further, defendant provided ample information as to why he committed the crimes. He admitted he became friends with and committed the crimes with a Ñorteno gang member, was willing to befriend other gang members, learned how to fight and "hold his ground" from gang members and had carved an "N" for Ñorteno in his right forearm. He also admitted the extent of his substance abuse.

and such a commitment is appropriate. The record does not support his claim that he was committed to DJF “solely” for retribution for the gravity of his crimes.

Maximum Term of Confinement

Defendant also contends the juvenile court committed reversible error by failing to exercise its discretion under Welfare and Institutions Code section 731, which provides juvenile courts with discretion to impose a maximum period of confinement that is less than that which may be imposed on an adult committing the same offenses. (Welf. & Inst. Code, § 731, subd. (c).)⁷ The proof, says defendant, is that the court both imposed the maximum time which can be imposed on an adult and failed to check item 8.b on Judicial Council Form JV-732.

Item 8.b of Form JV-732 states: “The Court has considered the individual facts and circumstances of the case in determining the maximum period of confinement.” When this item is checked, as it should be, the juvenile court’s exercise of its discretion under Welfare and Institutions Code section 731 is apparent. (*Julian R.*, *supra*, 47 Cal. 4th at p. 499, fn. 4.)

Failure to check this item, however, does not require automatic reversal. In *Julian R.*, the Supreme Court held the juvenile court is not required to make an oral pronouncement of the facts and circumstances relied on to determine the maximum term of confinement. (*Julian R.*, *supra*, 47 Cal.4th at pp. 496-498.) While this is the better practice, the court explained that on a silent record, a reviewing court must presume a juvenile court has performed its duty to consider the facts and circumstances of an individual minor’s case when setting the maximum term of confinement. (*Id.* at pp. 492,

⁷ “Section 731 sets two ceilings on the period of physical confinement to be imposed. The statute permits the juvenile court in its discretion to impose either the equivalent of the ‘maximum period of imprisonment that could be imposed upon an adult convicted of the offense or offenses’ committed by the juvenile (§ 731, subd. (c)) or some lesser period based on the ‘facts and circumstances of the matter or matters that brought or continued’ the juvenile under the court’s jurisdiction (*ibid.*).” (*In re Julian R.* (2009) 47 Cal.4th 487, 498 (*Julian R.*))

498-499.) This presumption is consistent with general appellate practice and provisions of the Evidence Code.

Thus, a juvenile court order is presumed to be correct on appeal, requiring the appellant to affirmatively show error. (*Julian R., supra*, 47 Cal.4th at pp. 498-499.) The law further presumes a juvenile court has regularly performed its official duties, including considering the facts and circumstances of the juvenile's case when setting his maximum term of confinement. (See Evid. Code, § 664; *Julian R., supra*, 47 Cal. 4th at p. 499.) This is a rebuttable presumption affecting the burden of proof. (Evid. Code, §§ 601, subd. (b), 605, 660.) As the applicable Evidence Code provisions do not state a standard of proof, a defendant must overcome the presumption by a preponderance of evidence. (See *id.*, § 115.)

We therefore presume the juvenile court was aware of and exercised its discretion in setting the maximum term of confinement. The court's failure to check item 8.b, alone, is insufficient to rebut this presumption; rather, it leaves a record that is merely "silent." Moreover, there is no evidence the court acted without regard for the unique facts and circumstances of this case. On the contrary, the record shows the juvenile court was familiar with the tragic circumstances, including not only the seriousness of the crimes and injuries to the victims, but also defendant's precipitous plunge into criminal gang activity despite a stable home and his later remorse. Defendant has not met his burden of proof by a preponderance of evidence, and we presume the juvenile court understood its duty and met it. (Evid. Code, §§ 601, 605, 606, 660, 664.)

Ineffective Assistance of Counsel

Defendant's final contention is that his attorney failed to sufficiently advocate that the juvenile court impose a shorter maximum term of confinement. He complains his counsel never mentioned Welfare and Institutions Code section 731, subdivision (c), and never advocated a term below the aggravated and aggregated maximum sentences that could be imposed on an adult.

"On a direct appeal a conviction will be reversed for ineffective assistance of counsel only when the record demonstrates there could have been no rational tactical

purpose for counsel's challenged act or omission. (*People v. Lucas* (1995) 12 Cal.4th 415, 442 . . . [‘Reviewing courts reverse convictions on direct appeal on the ground of incompetence of counsel only if the record on appeal demonstrates there could be no rational tactical purpose for counsel’s omissions.’]; *People v. Mitcham* (1992) 1 Cal.4th 1027, 1058 . . . [‘ “If the record sheds no light on why counsel acted or failed to act in the manner challenged, ‘unless counsel was asked for an explanation and failed to provide one, or unless there simply could be no satisfactory explanation,’ [citation], the contention [that counsel provided ineffective assistance] must be rejected.” ’].)” (*People v. Mesa* (2006) 144 Cal.App.4th 1000, 1007-1008.)

“In considering a claim of ineffective assistance of counsel, it is not necessary to determine ‘ “whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. . . . If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, which we expect will often be so, that course should be followed.’ ” (*In re Fields* (1990) 51 Cal.3d 1063, 1079 . . . , quoting [*Strickland v. Washington* [(1984)] 466 U.S. [668], 697) It is not sufficient to show the alleged errors may have had some conceivable effect on the trial’s outcome; the defendant must demonstrate a ‘reasonable probability’ that absent the errors the result would have been different. (*People v. Williams*[(1997)] 16 Cal.4th [153,] 215 . . . ; *People v. Ledesma* (1987) 43 Cal.3d 171, 217-218)” (*People v. Mesa, supra*, 144 Cal.App.4th at p. 1008.)

We agree with the Attorney General that defendant cannot show prejudice from the asserted deficiency of his counsel and therefore his ineffective assistance of counsel claim is without merit. The probation report stated defendant would be eligible for parole in four years (i.e., when he is 21 years old), but DJF would have jurisdiction over him until he was 25 years old. Thus, defense counsel reasonably understood defendant, although committed for “life,” would actually be committed for four to nine years for committing two exceedingly serious crimes, including a life crime, with multiple enhancements, the terms for which were ordered to run consecutively. (See Welf. & Inst. Code, § 1771; *Julian R., supra*, 47 Cal.4th at p. 497 [juvenile committing felony is

ordinarily not committed beyond the age of 25].) We discern no probability defendant would have received a shorter maximum term of confinement, regardless of what arguments his counsel might have made.

Further, a number of individuals wrote letters in support of defendant and defendant, himself, submitted a letter to the court. In addition, defendant addressed the court at the disposition hearing, and his sister also personally spoke on his behalf. There can be no mistaking it was hoped the court would be moved to impose something less than the permissible maximum term. Defendant's counsel could not have added more to what had already been conveyed.

DISPOSITION

The juvenile court's dispositional order is affirmed.

Banke, J.

We concur:

Margulies, Acting P. J.

Dondero, J.