

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

In re MICHAEL C., a Person Coming
Under the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL C.,

Defendant and Appellant.

A134491

(Solano County
Super. Ct. No. J40321)

Appellant Michael C. appeals from a dispositional order of the juvenile court committing him to the care of the probation department for placement at New Foundations. Appellant’s court-appointed counsel has asked this court to independently examine the record in accordance with *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), to determine if there are any arguable issues that require briefing. Counsel has also identified the following issue “ ‘in the record that might arguably support the appeal’ ” pursuant to *Anders v. California* (1967) 386 U.S. 738, 744: “Did the trial court abuse its discretion when it found sufficient evidence to sustain the allegations where a black-and-white video was inconclusive on the issue of identity?”

Appellant was apprised of his right to file a supplemental brief, but he did not do so. We have conducted our review, conclude there are no arguable issues, and affirm.

BACKGROUND

In the early morning hours of December 10, 2011, Janet Salm was at her home in Rio Vista. She was awakened by noises in the back of her house, which faced the Rio Vista High School football field. She went out back and saw a truck driving around in circles (doing “donuts”) on the field, coming to a stop when it hit a goal post. She ran into her house and called 911. When she went back outside, the truck was empty, so she went inside. She then saw a White or Latino male wearing a dark hooded sweatshirt, dark pants, and gloves running down the street in front of her house.

Rio Vista police located the registered owner of the truck and determined that it had been stolen earlier that night. A neighbor of the truck owner had a video surveillance system that recorded activity on the street in front of their homes, and recordings made shortly before the incident at the high school showed a White male trying to open the doors of multiple cars parked on their street. The recordings then showed the truck being driven away a few minutes later.

Rio Vista Police Officer Daniel Pratt, who had seen appellant “upwards of 50” times in the past, viewed the surveillance video and recognized appellant as the individual in the video. He testified that he was sure it was appellant from “prior contacts, his physical stature, the way he wears his clothing, and the way he walks” and his face. He also recognized the checkered jacket as one he had seen appellant wear before.

Three days after the incident, Officer Pratt showed the surveillance tapes to appellant’s mother. According to the officer, she unequivocally identified appellant as the individual in the recordings, stating, “It’s fucking Mikey,” and “What is he doing now?” She specifically recognized the suspect’s hat and jacket as articles of clothing worn by her son. At the jurisdictional hearing, however, appellant’s mother testified she told Officer Pratt that it looked like her son, that “it could be” him, but “the way he was walking” made her doubt it.

On December 15, 2011, the Solano County District Attorney filed a Welfare and Institutions Code section 602 petition, charging appellant with one count of unlawful

driving or taking of a vehicle (Veh. Code, § 10851, subd. (a)) and one count of hit and run driving (Veh. Code, § 20002, subd. (a)).¹

On January 6, 2012, a contested jurisdictional hearing was held. At the conclusion, the juvenile court sustained both counts and continued the matter for disposition.

On January 23, 2012, the court committed appellant to the care of probation department for placement at New Foundations.

This timely appeal followed.

DISCUSSION

Juvenile delinquency proceedings are typically considered to be civil in nature (Welf. & Inst. Code, § 203; *In re Winship* (1970) 397 U.S. 358, 365), and some appellate courts have held that *Wende* review is inapplicable to civil commitment cases. (See *Conservatorship of Ben. C.* (2007) 40 Cal.4th 529, 535, 537 [commitment under Lanterman-Petris-Short Act, Welf. & Inst. Code, § 5000 et seq.]; *People v. Dobson* (2008) 161 Cal.App.4th 1422, 1436-1438 [petition for restoration of sanity after insanity acquittal, Pen. Code, § 1026.2]; *People v. Taylor* (2008) 160 Cal.App.4th 304, 312-313 [postconviction commitment under Mentally Disordered Offenders Act, Pen. Code, § 2962 et seq.])

Nevertheless, we are persuaded that the *Wende* procedure mandated in criminal proceedings should also apply to appeals from juvenile delinquency orders. (*In re Kevin S.* (2003) 113 Cal.App.4th 97, 113-119 [delinquency proceedings sufficiently similar to criminal prosecutions to require *Wende*'s independent review of the record if counsel raised no specific issues on appeal].) Consistent with this authority, we have reviewed the entire record and have found no issues that merit briefing.

¹ This was not appellant's first section 602 petition. He had previously been declared a ward of the juvenile court and had already amassed a significant juvenile record.

More specifically, as noted above, counsel for appellant questions the sufficiency of the evidence of appellant's identity as the individual who stole the truck, claiming the video recordings were "inconclusive on the issue of identity." Not so.

Three individuals who viewed the surveillance recordings unequivocally identified appellant as the individual on the tape. First, Officer Pratt testified that he had "upwards of 50" encounters with appellant prior to this incident. Upon viewing the surveillance tape, he immediately recognized appellant as the individual casing the cars. In the officer's words, he recognized appellant from "prior contacts, his physical stature, the way he wears his clothing. . . ." Second, appellant's mother viewed the recordings outside appellant's presence and positively identified him as the suspect. Only upon testifying at the jurisdictional hearing—with appellant in the courtroom—did she hedge her identification. Significantly, the court found Officer Pratt's testimony concerning appellant's mother's identification to be credible. Finally, the court stated that in one of the recordings, the suspect's face and clothing were visible, and, as the court put it, "[I]t looks like him to me." In light of this evidence, it cannot be said that the surveillance recordings were inconclusive. There was ample evidence to support the juvenile court's findings, and there was thus no abuse of discretion. (*In re Darryl T.* (1978) 81 Cal.App.3d 874, 877; *In re Khamphouy S.* (1993) 12 Cal.App.4th 1130, 1135 [" 'An order of disposition, made by the juvenile court, may be reversed by the appellate court only upon a showing of an abuse of discretion. . . . ' "].)

DISPOSITION

Concluding there are no arguable issues requiring briefing, we affirm the juvenile court's dispositional order.

Richman, J.

We concur:

Kline, P.J.

Haerle, J.