Filed 9/19/12 In re V.P. CA1/1

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

In re V.P., a Person Coming Under the Juvenile Court Law.	
THE PEOPLE, Plaintiff and Respondent, v. V.P., Defendant and Appellant.	A134830 (Alameda County Super. Ct. No. SJ11-18013)

The minor V.P. appeals from a juvenile court dispositional order removing him from his mother's custody. The minor's appellate counsel has raised no issues, but asks this court for an independent review of the record to determine whether there are any issues that would, if resolved favorably to the minor, result in reversal or modification of the dispositional order. (See *People v. Kelly (*2006) 40 Cal.4th 106; *People v. Wende* (1979) 25 Cal.3d 436.) Counsel declares the minor was notified of his right to file a supplemental brief, but the minor has not done so. Upon independent review of the record, we conclude no arguable issues are presented for review, and affirm the juvenile court's order.

BACKGROUND

Because the minor has appealed only the dispositional order, not the jurisdictional order, details of the evidence for and against the minor are not relevant to this appeal and we therefore provide only a summary.

At about 10 p.m. on Thanksgiving Day 2011, F.P. was inside his Oakland home when he noticed the family dog was bleeding profusely and heard, from outside, the minor and the minor's friend, J.G., joking about how the dog was going to die. F.P.'s uncle went outside to confront the minor, who was in the gated yard of the neighbor, the minor's aunt. About a minute later, F.P. came out to see what was going on. F.P. recognized the minor and knew his name. By the time F.P. came outside, the minor and F.P.'s uncle were in the street fighting, and F.P. could hear the minor calling his friend J.G. for help and threatening to kill F.P.'s uncle.

According to F.P., he then came to his uncle's aid, trying to move his uncle out of harm's way. The minor was on the ground and J.G. was by the minor's side. F.P.'s back was to the minor as he pushed his uncle. The minor then rose and stabbed F.P. in his side and struck him in the face. F.P. turned around quickly, saw the minor "in his face" and saw the blow to his face. The minor then stepped away, and F.P. could see a knife in the minor's hand.

The district attorney filed a wardship petition on November 29, 2011. Count 1 alleged the minor assaulted F.P. by means likely to produce great bodily harm (Pen. Code, § 245, subd. (a)(1))[1] and in fact inflicted great bodily harm (§ 12022.7). Count 2 alleged the minor battered F.P. (§ 243, subd. (d)).

A jurisdictional hearing took place on December 20-21, 2011, and January 3, 2012. F.P. and F.P.'s uncle testified for the prosecution. The minor rested without putting on any evidence. The juvenile court found count 1 of the petition, and the

[1] All further statutory references are to the Penal Code unless otherwise indicated.

section 12022.7 injury enhancement, true beyond a reasonable doubt, but did not rule on count 2, viewing it as a "backup count." The court found the maximum time the minor could be confined to be seven years.[2]

The disposition hearing occurred on January 18, 2012. The juvenile court declared the minor a ward of the court. Despite the probation officer's recommendation to have the mother supervise the minor in her home, the juvenile court withdrew custody from mother and ordered the minor placed in a suitable county facility, in particular, Camp Sweeney. A probation officer would supervise the minor's care, custody, control, and conduct. The minor would be required to obey the law, his parent, and his camp counselors; cooperate with the probation officer; attend school; avoid drugs and submit to drug testing; and submit to searches of his person and property. The court also ordered a restitution fine of $100. Finally, the court prohibited the minor from contacting F.P., F.P.'s uncle, or the minor's friend J.G.

The minor's trial attorney filed a notice of appeal on March 1, 2012, from the juvenile court's January 18, 2012, dispositional order.

DISCUSSION

Upon review of the record, we discern no arguable issues. The minor was ably represented by counsel at all times during the juvenile proceedings. He had a full and fair opportunity to present his case to the juvenile court at the dispositional hearing. The court correctly set his maximum confinement time at seven years, adding four years for the assault (§ 245) and three years for the great bodily harm enhancement (§ 12022.7).

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[2] "Welfare and Institutions Code section 726 requires the juvenile court to specify in its commitment order the 'maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.' Section 726 is directive, and it requires the court to use the upper term for the proven offense or offenses." (*In re George M.* (1993) 14 Cal.App.4th 376, 380; see, e.g., *In re Stephon L.* (2010) 181 Cal.App.4th 1227, 1230 [applying § 726].)

(See generally *People v. Parrish* (1985) 170 Cal.App.3d 336, 342 [Pen. Code, § 12022.7 enhancement is not double punishment of assault].) Further, based on the nature of the minor's offense, the court did not abuse its discretion in ordering the minor committed to Camp Sweeney. (See *In re Angela M.* (2003) 111 Cal.App.4th 1392, 1396 [a juvenile court's commitment decision is reviewed for abuse of discretion, with all reasonable inferences indulged to support its decision]; cf. *In re Tyrone O.* (1989) 209 Cal.App.3d 145, 151 [affirming CYA commitment].)

DISPOSITION

The juvenile court's dispositional order is affirmed.

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Banke, J.

We concur:

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Margulies, Acting P. J.

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Dondero, J.