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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

In re JIMMY M., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,
Plaintiff and Respondent,

v.

JIMMY M.,
Defendant and Appellant.

A135141

(Solano County
Super. Ct. No. J38116)

Minor, Jimmy M. appeals from the juvenile court's March 2, 2012 dispositional order following a contested probation violation hearing. Appellant's counsel has briefed no issues and asks this court to review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, to determine whether it contains any arguable issues. Counsel has notified appellant he can file a supplemental brief with the court. No supplemental brief has been received from appellant. Upon independent review of the record, we conclude no arguable issues are presented for review and affirm the judgment.

STATEMENT OF FACTS AND PROCEDURAL BACKGROUND

Welfare and Institutions Code Section 602 Petitions

A November 28, 2007 petition filed pursuant to Welfare and Institutions Code section 602 alleged appellant committed one count of felony assault by means likely to produce great bodily injury (Pen. Code,¹ § 245, subd. (a)(1)), with a gang enhancement,

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

and one count of misdemeanor threatening a public officer (§ 71). Under a plea agreement, appellant admitted the assault charge and the misdemeanor was dismissed. Appellant was adjudged a ward of the court and placed on probation in the custody of his mother with various conditions of probation including gang terms.

Suffice it to say, between November 2007 and November 2010 appellant was the subject of numerous juvenile court proceedings. We briefly summarize them to provide background.

Seven months after the original Welfare and Institutions Code section 602 petition, appellant was detained on three new charges: two counts of felony vandalism (§ 594, subd. (a); counts 1 and 2) and one count of misdemeanor resisting, obstructing or delaying a peace officer (§ 148, subd. (a)(1); count 3). An amended petition was subsequently filed alleging one count of first degree burglary (§ 459; count 4) and one count of misdemeanor vandalism (§ 594, subd. (b)(2)(A); count 5). After admitting the burglary charge, the court dismissed counts 1, 2, and 3 outright, and shortly thereafter dismissed count 5 with “C & R.” Appellant was continued on probation in the custody of his mother.

Appellant was back before the court in April 2009, this time on one count of felony assault with means likely to produce great bodily injury (§ 245, subd. (a)(1); count 1) and one count of battery on school property (§ 243.2, subd. (a); count 2). While this petition was still pending, an amended subsequent petition was filed adding two counts of felony vandalism (§ 594, subd. (b)(1); counts 3 and 4). Appellant admitted count 2, assault on school grounds as a misdemeanor, and the court dismissed count 1.

Counts 3 and 4 were still pending when another amended subsequent petition was filed on September 28, 2009, alleging forcible rape (§ 261, subd. (a)(2); count 5) and unlawful sexual intercourse with a minor (§ 261.5, subd. (b); count 6). After the district attorney dismissed this amended petition without prejudice on October 20, 2009, the trial court granted the district attorney’s motion to dismiss the felony vandalism allegations in counts 3 and 4, and set the matter for a dispositional hearing. At the dispositional hearing

on count 2, battery on school property, the court once again continued appellant on probation in the custody of his mother.

On January 29, 2010, a Welfare and Institutions Code section 602 petition was filed alleging appellant had violated the terms of his probation by testing positive for marijuana, failing to submit to drug testing, and failing “to serve his mandatory weekend at JDF.” Appellant admitted the second and third allegations, and was committed to the New Foundations juvenile institution.

On November 1, 2010, a subsequent wardship petition was filed alleging appellant was an occupant in a vehicle with a concealed firearm (former § 12025, subd. (a)(3)). After the prosecution amended the petition to add a count of minor in possession of a firearm (former § 12101), appellant admitted that charge as a felony. Appellant was placed on probation and initially committed to Fouts Springs Youth Facility, but due to its closure, he was later committed to juvenile hall for 382 days with credit for time served of 262 days.

Supplemental Report Alleging Probation Violation

A supplemental report was issued on January 3, 2012, alleging appellant was “in violation of his Probation terms” following his arrest for possession of a handgun and ammunition. During the contested probation violation hearing, Vallejo Police Officers Jaksch and Potts testified they stopped a white Buick Regal for speeding on December 31, 2011 in the early evening. Appellant was seated in the left rear passenger’s seat. While approaching the vehicle, Jaksch smelled “an odor of fresh marijuana coming from the front of the vehicle.” As he spoke with the driver and passengers, he observed a “semi-clear, green-colored pill bottle sitting next to the gear shifter which contained marijuana.” After Jaksch and Potts detained and searched the right front passenger, appellant was asked to step out of the vehicle. Potts then searched appellant for marijuana instead discovering a purple bag containing .38-caliber ammunition in appellant’s left jacket pocket. Jaksch participated in the search of the vehicle where a “.38 Special revolver” with an obliterated serial number was located on the right rear floorboard. Following the discovery of the revolver, Jaksch overheard

appellant telling his friends he was “going to own up and take responsibility for the gun as it was his.” Appellant subsequently was advised of and waived his *Miranda*² rights, admitting he possessed the revolver, but claiming it was for self-defense.

At the conclusion of the probation violation hearing, the trial judge found appellant’s possession of the weapon was “a direct violation of his court orders to obey all laws.” Since appellant had reached the age of 18 by the time of the dispositional hearing held on March 2, 2012, the court terminated appellant’s probation “unsuccessfully.” The court found the maximum period of confinement to be seven years four months with credits for 628 days.

This timely appeal followed.

DISCUSSION

Appellant was represented by counsel throughout the proceedings. We find no indication in the record counsel provided ineffective assistance.

Substantial evidence supports the trial court’s finding appellant violated the terms of his probation by possessing a revolver. The .38-caliber revolver was located on the right rear floorboard near where appellant was seated in the vehicle and .38-caliber ammunition was found in his jacket pocket. Further and significantly, he admitted to his friends and the police the revolver belonged to him.

No dispositional error was committed. Since being adjudged a ward of the court, the juvenile court had been exceedingly patient with appellant ordering numerous grants of probation. Yet appellant continued to reoffend. Once appellant reached age 18 and was no longer subject to juvenile court jurisdiction, the court correctly terminated probation finding appellant had unsuccessfully completed it.

² *Miranda v. Arizona* (1966) 384 U.S. 436 (*Miranda*).

The court has reviewed the entire record and finds no arguable issues requiring further briefing.

Accordingly, the judgment is affirmed.

Margulies, J.

We concur:

Marchiano, P.J.

Banke, J.