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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re L.H., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

L.H.,

Defendant and Appellant.

A135197

(San Francisco City & County
Super. Ct. No. JW10-6650)

Appellant L.H. appeals from the “February 6, 2012 denial of Motion to Set Aside Plea entered in San Mateo Juvenile Court on December 22, 2010, as well as denial of Writ of Error Coram Nobis.” His 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. L.H. 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.

On November 21, 2010, then 16-year-old L.H. and his girlfriend were aboard a Muni bus when they approached a fellow passenger. According to the passenger, L.H. had a revolver in his front sweatshirt pocket with the barrel of the gun protruding from the pocket. L.H. demanded that the passenger give him everything he had, threatening to shoot him if he did not comply. When the passenger denied having anything in his

possession, L.H. grabbed an iPod that was in his pocket. L.H. and his girlfriend then fled.

L.H.'s girlfriend was apprehended a few days later, and L.H. self-surrendered shortly thereafter. In a police interview, he admitted committing the robbery, but denied using a gun, claiming instead that it was a pocketknife in his pocket. He stated that he had run away from home and committed the crime because he was hungry and needed money.

On December 6, 2010, the San Mateo County District Attorney filed a juvenile wardship petition (Welf. & Inst. Code, § 602) charging L.H. with three crimes, including first degree robbery with a firearm enhancement. L.H. admitted the robbery count, and all remaining counts and enhancements were dismissed. The matter was then transferred to San Francisco County (L.H.'s county of residence), and L.H. was detained at juvenile hall pending disposition. Per the detention report, "The Minor's mother reported the Minor is living in the United States illegally. Immigration and Customs Enforcement (ICE) . . . was notified."

L.H. was declared a ward of the court and committed to juvenile hall for 49 days, with credit for 49 days served. He was placed on probation on January 18, 2011, and released to ICE two days later.

L.H. was released from ICE custody on March 26, 2011, but he did not stay out of trouble for long. In mid-May he was arrested for making gang-related terrorist threats to the girlfriend of a rival gang member.¹ The San Francisco District Attorney filed a wardship petition charging L.H. with making criminal threats, making harassing phone calls, and stalking. An amended petition added a count for possession of live ammunition that was found in L.H.'s room during a probation check. In light of the new charges, the probation department moved to revoke L.H.'s probation, and he was detained at juvenile hall.

¹ L.H. was known to affiliate with the Norteno street gang.

On June 29, 2011, L.H. admitted the ammunition possession charge, and the threat counts were dismissed. The court minutes of the hearing noted, “Minor is advised of immigration rights. If an admission is made, minor may be deported, not allowed to come back to the US or detained naturalized as an American citizen. If minor is not a citizen, he/she has the right to contact his/her embassy or consulate before entering an admission.” On July 13, 2011, after serving 84 days at juvenile hall, L.H. was returned to probation with special conditions for gang members. A week later he was taken into ICE custody , where he remained until the end of September 2011.

On November 14, 2011, a supplemental Welfare and Institutions Code section 602 petition was filed, this one charging L.H. with five counts arising out of a domestic violence incident that involved the endangerment of his infant daughter.² L.H. was again detained at juvenile hall, although the court soon agreed to release him if the San Francisco Boys and Girls Home (SFBGH) would accept him into their program.

On November 21, 2011, L.H. filed a motion to “set aside a plea pursuant to Penal Code section 1018 and/or writ of error coram nobis.” It sought to set aside the December 22, 2010 plea admitting the robbery allegation on the ground that L.H. was not fully informed of the potential immigration consequences of that admission, nor the consequences of admitting a strike count. L.H. submitted three exhibits in support of the motion. Exhibit A was the declaration of Bonnie L. Miller, counsel that represented L.H. in the San Mateo proceeding, who testified, “During my representation of L.H., I do not recall whether I thoroughly advised him of the immigration consequences of an admission in his delinquency matter. [¶] . . . During my representation of L.H., I do not recall whether I thoroughly advised him of the fact that the charge he admitted was a strike and what the consequences of such an admission would be.”

² L.H.’s girlfriend had given birth to their daughter while L.H. was in ICE custody on the first immigration hold.

Exhibit B was a transcript of the hearing at which L.H. admitted the robbery allegation. As evidenced by the transcript, after L.H. advised the court that he was born in Guatemala, the following exchange occurred:

“THE COURT: Okay, L.H., do you understand that—

“Have you, Ms. Miller, discussed the immigration consequences of this admission with your client?

“MS. MILLER: We did talk about that.

“THE COURT: Okay. If you are not a citizen, L.H., of the United States, your admission to this petition may result in deportation. If you leave the country voluntarily, you may be denied the ability to naturalize as a United States citizen as a consequence of your admission. In other words, this admission perhaps could have serious immigration consequences for you.

“Do you understand this?

“L.H.: Yes.

“THE COURT: Have you discussed this with your attorney, Ms. Miller?

“L.H.: Yes.

“THE COURT: And notwithstanding that, you still wish to proceed?

“L.H. Yeah.”

Exhibit C was the declaration of L.H., who testified that he “d[id] not recall” discussing any immigration consequences of his plea or any potential consequences of admitting a strike.

At a December 6 hearing, the court ordered L.H. released to SFBGH upon space becoming available. Although not specified in the record, space apparently became available at some point and L.H. was admitted to the program. However, per a February 3, 2012 memorandum from the manager of SFBGH, L.H. violated their policies. That same day, the probation department requested a detention hearing on the grounds that L.H. had violated a court order and was likely to flee the jurisdiction of the court.

At a February 6 hearing, the court found L.H. in violation of a court order and ordered him detained. It also denied his motion to set aside the plea, concluding that he failed to meet his burden of demonstrating either that he was not properly advised of the consequences of his plea or that his counsel provided ineffective assistance.

On April 10, 2012, L.H. filed a notice of appeal appealing from the “February 6, 2012 denial of Motion to Set Aside Plea entered in San Mateo Juvenile Court on December 22, 2010, as well as denied of Writ of Error Coram Nobis.”

As noted, L.H.’s counsel has requested that we review the entire record for any arguable issues pursuant to *People v. Wende, supra*, 25 Cal.3d 436. We have conducted that review, with particular attention to L.H.’s motion to set aside his December 22, 2010 plea, and have found no issues that merit briefing. The judgment is thus affirmed.

Richman, J.

We concur:

Kline, P.J.

Haerle, J.