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THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

In re V.J., a Person Coming under the  
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

V.J.,

Defendant and Appellant.

A135884

(Solano County  
Super. Ct. No. J38765)

Appellant V.J. contends the juvenile court incorrectly calculated his maximum confinement time. We shall direct the juvenile court to modify appellant’s maximum term of confinement but otherwise affirm the juvenile court’s dispositional order.

**PROCEDURAL BACKGROUND<sup>1</sup>**

The San Mateo District Attorney filed a juvenile wardship petition in April 2012 alleging that appellant falsely impersonated another (Pen. Code, § 529)<sup>2</sup> and gave a false name to a police officer after being lawfully detained (§ 148.9, subd. (a)). Appellant admitted giving a false name to a police officer while lawfully detained. The juvenile court dismissed the remaining charge. At the time of the offense, appellant was on

<sup>1</sup> Because the sole issue raised on appeal concerns the calculation of appellant’s maximum term of confinement, it is unnecessary to summarize the facts supporting the charges against appellant.

<sup>2</sup> Further statutory references are to the Penal Code unless otherwise specified.

juvenile probation in Contra Costa County after admitting in 2010 that he committed grand theft from a person (§ 487, subd. (c)) and battery (§§ 242, 243, subd. (a)). In addition, in 2008 appellant admitted charges of vandalism (§ 594, subd. (a)) and sexual battery (§ 243.4, subd. (e)(1)).

Following appellant's admission in San Mateo County, the case was transferred to Contra Costa County to address an alleged probation violation, which appellant admitted. Because appellant's mother had moved to Solano County, his case was transferred there for disposition. At the conclusion of a contested dispositional hearing, the juvenile court ordered that appellant be placed at the Rites of Passage program. The court calculated appellant's maximum term of confinement as four years. Appellant filed a timely notice of appeal.

### **DISCUSSION**

Appellant's sole claim on appeal is that the juvenile court erred in calculating his maximum term of confinement. He contends it should have been calculated as three years ten months instead of four years. The Attorney General concedes that the juvenile court erred and agrees with appellant's calculation. We conclude the concession is well taken.

“When aggregating multiple counts and previously sustained petitions, the maximum confinement term is calculated by adding the upper term for the principal offense, plus one-third of the middle term for each of the remaining subordinate felonies or misdemeanors.” (*In re David H.* (2003) 106 Cal.App.4th 1131, 1133-1134.) Applying this formula, appellant's base term is the three-year upper term for felony grand theft from a person (§§ 487, subd. (c), 489, subd. (b), 1170, subd. (h)(1)). Another four months, or one-third of the maximum one-year term, should be added for the misdemeanor vandalism count (§ 594, subd. (a)). Another two months should be added for each of the two misdemeanor battery counts (§§ 242, 243, subd. (a), 243.4, subd. (e)(1)), which carry a maximum term of six months each. Finally, two months, or one-third of the maximum six-month term, should be added for the misdemeanor charge of providing a false name to a police officer while lawfully detained (§ 148.9, subd. (a); see

also § 19). Thus, the maximum term of confinement should have been calculated as three years ten months.

**DISPOSITION**

The dispositional order is modified to provide that appellant's maximum term of confinement is three years ten months. As modified, the dispositional order is affirmed.

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McGuiness, P. J.

We concur:

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Pollak, J.

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Siggins, J.