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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

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

THE PEOPLE,

Plaintiff and Respondent,

v.

N.H.,

Defendant and Appellant.

A135976

(Solano County  
Super. Ct. No. J39425)

**I. INTRODUCTION**

Appellant, then age 17 (but now 18<sup>1</sup>), a juvenile with an extensive history of charging petitions and resulting orders since he was 14, was charged in May 2012 with violating his probation by failing to obey all laws. After a contested dispositional hearing, the juvenile court concluded that he should be placed in confinement with the New Foundations program. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, he appeals and asks this court to determine if there are any issues deserving of further briefing. We have done so, find none, and hence affirm the juvenile court’s order.

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<sup>1</sup> Albeit still subject to juvenile court jurisdiction pursuant to Welfare and Institutions Code sections 602, subdivision (a), and 607.

## II. FACTUAL AND PROCEDURAL BACKGROUND

On May 5, 2012,<sup>2</sup> appellant was detained by a Vallejo police officer after the officer saw him and another person, James Johnson, in a car begin acting suspiciously when they saw the police car. When the officer turned his car around to check the license plate of the vehicle appellant was in, that car increased its speed and went through a red light. A short time later, with the vehicle still moving, both Johnson and appellant jumped from the car and tried to flee. The officer pursued appellant on foot, ordering him several times to stop; appellant disregarded those commands. Appellant continued to disregard the officer's orders even after the officer drew a gun. The officer was finally able to wrestle him to the ground. Appellant claimed that, after Johnson had jumped from the car, he also jumped, after he noticed the car had no keys in the ignition. He later acknowledged that he knew Johnson did not have a driver's license. The officer arrested appellant and took him to juvenile hall.

Two days later, on May 7, the Solano County District Attorney filed a one-count petition pursuant to Welfare and Institutions Code section 602, subdivision (a), charging appellant with misdemeanor resisting arrest. (Pen. Code, § 148, subd. (a)(1).) At a hearing held on May 9, the prosecutor moved to amend the petition by added a count charging appellant with violating his probation for his "failure to obey all laws." After appellant admitted violating probation, the court dismissed the resisting arrest count.

On May 30, the juvenile court held a contested dispositional hearing. At that hearing, the prosecution first submitted the matter based on the probation officer's report. The defense then called appellant to testify; he asserted that, although his probation officer had told him he had had a positive drug test in March, in fact he did not use marijuana in February or March, but had in April.

However, appellant's probation officer then testified that, during her interview with appellant on May 15, he confirmed to her that he had resumed smoking marijuana in March and had been using it once or twice a week since then, albeit "drinking lots of

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<sup>2</sup> Unless otherwise noted, all further dates are in 2012.

water to reduce the levels in his tests.” That officer also told the court that she recommended appellant be placed at New Foundations because she thought he would benefit from its substance abuse program and needed an environment different from that at his home (with his mother and then, after she lost her home, with an aunt).

Based on this testimony and the probation officer’s report, including appellant’s juvenile offense history, the court found that placement in the New Foundations program for substance abuse counseling and other support was the appropriate remedy. Although the court heard appellant’s mother’s request that he be allowed to return home, it continued appellant’s wardship, set his maximum confinement time at seven years and four months, and gave him total credits of 225 days.

Appellant filed a timely notice of appeal on June 29.

### **III. DISCUSSION**

As indicated in the foregoing statement of facts and the proceedings in the juvenile court, appellant has had an extensive history before that court. First of all, and although not directly related to that history, both of his parents have a criminal history. They are separated and appellant had been living with his mother and older brother until his mother lost her home at the end of January 2012, when he commenced living with an aunt until his early May detention. The mother had admitted to having alcohol problems, which have resulted in at least one report to Child Protective Services, and a court order that she undergo treatment. Appellant’s mother was also reported by the probation department as having been uncooperative regarding appellant’s drug-related problems and his compliance with other, prior, probation conditions.

Appellant’s juvenile record started in August 2009, when he admitted to one felony count of car theft, one misdemeanor count of unlicensed driving, and one felony count of receiving stolen property. (Veh. Code §§ 10851, subd. (a); 12500, subd. (a); Pen. Code, § 496d, subd. (a).) The juvenile court granted appellant deferred entry of judgment on these charges. However, on November 13, 2009, that court terminated the deferred entry of judgment and imposed a formal wardship, after appellant admitted a misdemeanor count of grand theft, and stipulated to the wardship.

On April 1, 2010, appellant admitted a misdemeanor battery violation (Pen. Code, § 242) and a violation of his existing probation for failure to attend the mandated counseling. The juvenile court then continued his wardship and probation, ordered him to attend drug and alcohol counseling, and to undergo drug testing as conditions of his continued probation.

However, appellant was returned to the juvenile court in December 2010, and admitted to one count of felony first degree residential burglary. (Pen. Code, § 459.) As a result of this admission, appellant was placed in the New Foundations program for four months, a program which was to be followed by an after-care program involving drug counseling and testing. His mother, with whom he was then living, was also ordered into substance abuse treatment. Appellant then recorded several negative drug tests, after which he was moved into a lower level of supervision. However, a relapse resulted, and in January 2012, appellant admitted to violating his probation by using marijuana. As a result, his probation was continued but he was ordered to again undergo substance abuse counseling, treatment, and frequent drug testing.

Later in 2012, appellant secured several negative test results, but then a positive test result in April. When confronted with this result, and as noted above, appellant admitted to his probation officer (the one who testified at his dispositional hearing) that he had started to use marijuana in March, and had continued to use it once or twice a week since then.

In view of appellant's extensive history of drug-related problems, his current age, his repeated failure to adhere to terms and conditions of his probation, and other related problems recited above, the juvenile court clearly did not err in its dispositional order. We thus find no need for further briefing.

#### **IV. DISPOSITION**

The disposition is authorized by law and, in the circumstances, does not constitute an abuse of discretion by the juvenile court. (*In re Jonathan T.* (2008) 166

Cal.App.4th 474, 484-485.) Our independent review having revealed no arguable issues that require further briefing, the judgment, which includes the disposition, is affirmed.

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Haerle, J.

We concur:

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Kline, P.J.

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Lambden, J.