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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

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

THE PEOPLE,

Plaintiff and Respondent,

v.

K.M.,

Defendant and Appellant.

A136170

(Alameda County

Super. Ct. No. SJ1101688-04)

Minor K.M. appeals from the juvenile court's July 24, 2012 dispositional order following a contested jurisdictional 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 HISTORY

On July 19, 2011, the Contra Costa County District Attorney filed an original petition in juvenile court alleging appellant committed a violation of Penal Code section 289, subdivision (d), sexual penetration of an unconscious person. Following a contested jurisdictional hearing, the trial court sustained the petition on June 21, 2012, and ordered the matter transferred to Alameda County for disposition. The Alameda

County Juvenile Court accepted the transfer of the matter, and on July 24, 2012, it ordered appellant placed in a sexual offender residential treatment program.

The following evidence was adduced at the jurisdictional hearing:

The victim, Jane Doe, testified that on February 6, 2011, she lived in a home, located in San Pablo, with “Claudia, [E.], her mom, her little sister and her little brother, and a lady that was renting.” That day she was “hanging out” outside with her boyfriend, Jose, but when it became dark, they went inside to a room. Her friends, Claudia and E. told her they were “going to drink.” Jane remained in the room with Jose, who eventually left around 10:00 p.m. Jane went to sleep after he left and awoke after E. entered the room. Fifteen minutes later, Claudia, Dennis, and appellant came to the window. Claudia said appellant wanted to talk to E. and after some hesitation, she agreed, “hopped” out of the window, and left.

After waking up around midnight and realizing she was alone, Jane went across the street and told E. and Claudia to come inside because they were past their 11:00 p.m. curfew. Only E. returned with Jane. Eventually Claudia, Dennis, and appellant entered the room. Jane was on the bed and appellant positioned himself on the left side of the bed in the corner. But after everyone got tired, appellant got off the bed and lay on the floor.

At some point, Jane woke up and discovered appellant’s finger was in her vagina and his hand was on her thigh while he kissed it. Once she moved, appellant moved and pretended he was sleeping. Jane walked across the room and told Claudia, Dennis, and E. that appellant had touched her while she was asleep. Shocked and angry when appellant denied touching her, Jane became angry and slapped him.

Claudia corroborated Jane’s testimony explaining that when Jane woke her up, she was screaming and crying and told her appellant had “fingered” her. Claudia also observed appellant lying on the bed. Similar to Claudia, E. testified she was awakened when Jane started to cry stating appellant had “touched her and fingered her.”

Appellant testified Jane “insisted” he sit on the bed and seemed to be “coming on to” him sexually. He started lie on the floor as everyone was falling asleep but then

moved to the bed. The next thing he knew, Jane was screaming and “got in my face.” According to appellant, he did not know what Jane was talking about, and after she slapped him, he left. Appellant denied putting his finger in Jane or touching her thigh.

DISCUSSION

Defendant was ably represented by counsel throughout the proceedings.

Substantial evidence supports the juvenile court’s finding that appellant committed sexual penetration of an unconscious person.

There was no dispositional error. In particular, under the circumstances of this case, placement in a sexual offender residential treatment program was appropriate.

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

Accordingly, the judgment is affirmed.

Margulies, Acting P.J.

We concur:

Dondero, J.

Banke, J.