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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

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

THE PEOPLE,

Plaintiff and Respondent,

v.

C.L.,

Defendant and Appellant.

A136483

(Alameda County  
Super. Ct. No. SJ10015082-02)

Appellant C.L., appeals from a jurisdictional admission and dispositional order of the Alameda County juvenile court. The appeal is authorized by Welfare and Institutions Code section 800. Appellant’s court-appointed attorney has filed a brief raising no legal issues and asking this court to conduct an independent review pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

**STATEMENT OF THE CASE**

On June 22, 2010, the District Attorney of Alameda County filed a petition pursuant to Welfare and Institutions Code section 602 alleging that appellant possessed live ammunition in violation of former Penal Code section 12101, subdivision (b),<sup>1</sup> a misdemeanor. Pursuant to the recommendation of the probation department, appellant

<sup>1</sup> Unless otherwise indicated, all subsequent statutory references are to the Penal Code.

was placed on informal probation. (Welf. & Inst. Code, § 654.2.) After he successfully completed that probation, the petition was dismissed and probation terminated on July 12, 2011.

A little more than a year later, on August 10, 2012, a new Welfare and Institutions Code section 602 petition was filed alleging one count of carrying a concealed firearm without a license (§ 25400, subd. (a)(2)) and one count of carrying a loaded firearm (§ 25850, subd. (a)). Both counts were alleged as felonies. Three days later, after plea negotiations, the first count was amended to a misdemeanor, and appellant entered an admission to carrying a concealed firearm without a license. Count two was dismissed, with the facts and the issue of restitution left open to the court at the time of disposition.

On August 27, 2012, the court declared wardship, removed appellant from the care and custody of his parents, and committed him “to the care, custody and control of the Probation Officer to be placed in a suitable foster home or private institution or group home/county facility under the standard conditions of probation.” Appellant was placed at Camp Sweeney on September 6, 2012.

Timely notice of appeal was filed on August 31, 2012.

### **FACTS**

The facts relating to the original Welfare and Institutions Code section 602 petition, charging appellant with misdemeanor possession of live ammunition, are described in the probation report essentially as follows: In response to a report that a person was in the Fruitvale area of Oakland armed with a gun, officers were dispatched to that area. A suspect later identified as appellant was seen running in the area described to the police. Appellant, who matched a description given the officers, ran into traffic apparently in order to elude them. After appellant was apprehended, the police found a bag containing six shotgun shells in the area from which he had run. Appellant “spontaneously” said he was with a companion, Steven P., who was found in possession of a loaded shotgun.

As noted, appellant successfully completed informal probation. The probation department noted that appellant was enrolled at Oakland High School and attending

classes, had sought additional help with his school work, had strong family ties which deterred him from continuing to engage in criminal activities, was respectful in the home, had demonstrated an ability to work with community agencies, and had committed no new offenses.

However, on August 8, 2010, officers on routine patrol saw appellant and another Asian male walking on the sidewalk on the 1800 block of East 19th Street, about two blocks away from appellant's house. As the officers approached, the two boys looked away. After the officers passed them and then made a U-turn, the boys began running away. The officers saw a black pistol in appellant's hand, which he then threw away. The weapon was later found, determined to have been stolen, with seven rounds of live ammunition in the magazine.

At the dispositional hearing on the second petition, the prosecutor, arguing against placing appellant back on probation, pointed out that appellant was "hanging out" at San Antonio Park, a place notoriously habituated by gangs and the scene of "numerous shootings and other acts of violence" and immediately "took off running" when he saw the police. In her view, appellant's explanation that he found the gun in a bush was "ridiculous." The district attorney emphasized appellant "previously had a quasi weapons charge that was ultimately dismissed, the fact he's carrying out a loaded firearm in an area known for gangs, identified as a prior gang member, talks about drinking every other day, I don't see just go home to mom as an appropriate disposition for this case and for this Minor. I think he needs a higher level of supervision."

Defense counsel asked the court to place appellant back on probation, with release to his parents and GPS monitoring. Counsel argued there was no reason to think appellant was involved in a gang, he had recently successfully completed informal probation on the earlier offense, had a very supportive family, was enrolled in school, and was employed in the local youth center.

The trial court focused in the end on the facts that both of appellant's offenses involved weapons, and the latest offense a loaded gun. Acknowledging that "the family is supportive, and they're trying to move out of the area," the court observed that

“meanwhile, he might be getting himself killed or killing somebody else with a 9 millimeter.” The court also noted that appellant “got the benefit of the doubt” on the prior offense but “[h]e doesn’t get the benefit of doubt at this point. We’re trying to keep him and other people alive in that area.” In short, the declaration of wardship and placement in the care and custody of the probation department at Camp Sweeney was predicated on three factors: the weapon-related nature of appellant’s past and present offenses, his presence at the time of the present offense in an area in which gang activity commonly took place, and the occurrence of the instant offense shortly after appellant completed probation on the earlier offense.

Timely notice of appeal was filed on August 31, 2012.

### **DISCUSSION**

Where an adult appellant has pled not guilty or no contest to an offense, the scope of reviewable issues is restricted to matters based on constitutional, jurisdictional, or other grounds going to the legality of the proceedings leading to the plea: guilt or innocence are not included. (*People v. DeVaughn* (1977) 18 Cal.3d 889, 895-896; § 1237.5.) The jurisdictional admission of juvenile in a proceeding pursuant to Welfare and Institutions Code section 602 is in many ways the functional equivalent of a not guilty or no contest plea by an criminal defendant. However, minors charged with violations of the Juvenile Court Law (Welf. & Inst. Code, § 200 et seq.) are not “defendants,” and they do not plead “guilty,” nor are “ ‘adjudications of juvenile wrongdoing “criminal convictions[;]” ’ ” thus the statutorily prescribed procedures applicable to a criminal defendant who appeals from a judgment of conviction based on a plea of guilty or no contest (§ 1237.5) do not apply to minors. (*In re Joseph B.* (1983) 34 Cal.3d 952, 955.) Nevertheless, the adult standard of nonjurisdictional irregularities and issues going to guilt or innocence have been applied to juvenile appeals. (*In re John B.* (1989) 215 Cal.App.3d 477.)

This district has held that, because a juvenile is deemed intelligent enough to appreciate the consequences of admitting having committed a crime, a juvenile also has the capacity to waive the right to appeal; provided that a specified disposition was an

integral part of the plea agreement. (*In re Uriah R.* (1999) 70 Cal.App.4th 1152, 1159.) Such a specified disposition was not, however, an integral part of the plea agreement in this case; the disposition was open to the court and appellant knew only that “[t]he maximum possible consequence for this admission is up to one year in a locked facility.” Furthermore, the rights appellant was told he would be giving up by agreeing to the negotiated disposition did not include the right to appeal from the dispositional order. So far as the record shows, appellant was never asked to and did not waive the right to appeal that order.<sup>2</sup> Nor does the record provide any reason to think appellant was told or understood that his admission constituted a waiver of his right to challenge the dispositional order as an abuse of discretion. Accordingly, appellant’s admission does not relieve us of the need to inquire whether the dispositional order arguably constituted an abuse of the juvenile court’s discretion.

The record provides no reason to think appellant was mentally incompetent to stand trial or to understand the admonitions he received prior to admitting that he carried a concealed firearm on his person without having a license to do so and thereby committed the misdemeanor offense defined in section 25400, subsection (a)(2).

Appellant was at all times represented by able counsel who protected his rights and interests.

Appellant stipulated to a factual basis for his admission and the record satisfies this court that there is such a basis.

The admonitions given appellant at the time he made his admission fully conformed with the requirements of *Boykin v. Alabama* (1969) 395 U.S. 238 and *In re*

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<sup>2</sup> The admonitions given appellant at the hearing on August 13, 2012, before he made his admission were delivered not by the court but, at the request of the court, by defense counsel. The rights counsel told appellant he would be giving up by his admission were only: the right to require the prosecution “to prove all of the charges in the petition are true beyond a reasonable doubt,” “the right to confront and cross-examine all witnesses against you,” “the right to remain silent,” and “the right to present a defense [including] the right of using the court’s subpoena power to help you bring in evidence and witnesses to help you in the case.”

*Tahl* (1969) 1 Cal.3d 122, save that he was properly not advised of a right to jury trial, and his admission was knowing and voluntary.

The disposition is authorized by law and, in the circumstances, does not constitute an abuse of discretion by the juvenile court.

Our independent review having revealed no arguable issues that require further briefing, the judgment, which includes the disposition, is affirmed.

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Kline, P.J.

We concur:

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Haerle, J.

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Richman, J.