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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re E.V., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

E.V.,

Defendant and Appellant.

A136670

(Solano County
Super. Ct. No. J40326)

This is an appeal from the juvenile court's restitution order of September 17, 2012. Pursuant to this order, the juvenile court required minor E.V. to pay restitution to the victim of his vehicle theft offense in the amount of \$1,940.12. In addition, the juvenile court held minor's parents subject to joint and several liability.

After minor filed a timely notice of appeal, appellate counsel was appointed to represent him. Appointed counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*People v. Wende*), in which she raises no issue for appeal and asks this court for an independent review of the record. (See also *People v. Kelly* (2006) 40 Cal.4th 106, 124 (*People v. Kelly*)). Counsel attests that minor was advised of his right to file a supplemental brief in a timely manner, but he has not exercised such right.

We have examined the entire record in accordance with *People v. Wende*. For reasons set forth below, we agree with counsel that no arguable issue exists on appeal. Accordingly, we affirm the juvenile court's restitution order.

FACTUAL AND PROCEDURAL BACKGROUND¹

On July 26, 2011, a juvenile wardship petition was filed in Santa Clara County pursuant to Welfare and Institutions Code section 602 (section 602 petition), alleging that, on August 6, 2010, minor committed the felony offense of vehicle theft (count one), and the misdemeanor offenses of resisting, delaying or obstructing an officer (count two), possessing burglary tools (count three), and driving without a license (count four). These allegations stemmed from the following August 6, 2010 events.

At about 3:15 a.m., two California Highway Patrol officers saw a Honda Civic at a stop sign with no front license plate. After following the Civic for a few blocks to a cul-de-sac, the officers attempted an enforcement stop by activating their siren and overhead lights and blocking the cul-de-sac opening. Rather than stopping, however, the Civic turned around and passed the officers traveling in the opposite direction at a speed of about 50 miles-per-hour, exiting the cul-de-sac in a gap between the squad car and curb. One of the officers, Officer Tesch, who had exited the squad car, got a close look at the driver as he passed by in the Civic.

The officers returned to their vehicle and turned it around to follow the Civic, finding it a few blocks away, abandoned but still running, despite the absence of an ignition key. The officers did not see any fleeing suspects, but could hear a rattling sound in a nearby yard. Within the hour, other police officers had arrived at the scene to assist in the search. One of these officers detained minor in a nearby back yard about 150 feet from the abandoned Civic. Shortly thereafter, Officer Tesch identified minor as the person he saw driving the Civic in the cul-de-sac. Officer Tesch read minor his Miranda rights and took him to the police station.

¹ In the name of judicial efficiency, much of the following statement of facts is taken from our opinion in another appeal in this matter, No. A135773, filed on April 26, 2013.

A subsequent search of the Civic revealed a backpack containing various burglary tools, including screwdrivers, wire cutters, a window punch, and an oil dipstick altered to enable it to start a vehicle without a key. When questioned, minor, who had been reported missing by his parents earlier that day after an altercation with his father, admitted the Civic was not his, but claimed not to recall where he got it. Minor explained that, after running away from home, he had gone to a party, although he could not recall its location. Minor declined to answer when asked whether he had been driving the Civic, which DMV records showed belonged to someone named Paul Koehler. Minor was thus arrested and transported to juvenile hall.²

Following a contested jurisdictional hearing on May 2, 2012, the juvenile court sustained the allegations that minor committed each of the alleged offenses, and then ordered the case transferred to Solano County.³ The Solano County Juvenile Court accepted transfer on May 10, 2012.

At the disposition hearing on June 7, 2012, the juvenile court continued minor as a ward of the court, placed him on probation in his parents' custody unless his probation officer were to permit him to live independently, and gave him credit for 40 days in custody.

At a subsequent hearing to address the issue of restitution on August 16, 2012, the juvenile court rendered the order challenged herein. Specifically, the juvenile court ordered minor to pay restitution to the victim in the amount of \$1,940.12 to cover damages sustained as a result of minor's vehicle theft and to deter his future criminality.

² Minor stipulated to several facts, including that he was not licensed to drive and that the Civic had been reported stolen by Koehler, the registered owner, on the morning of August 6, 2010.

³ On January 17, 2012, in a separate case stemming from an earlier section 602 petition, the Solano County Probation Department filed a notice of hearing alleging minor violated the terms of his probation by using marijuana. At the subsequent March 22, 2012 probation violation hearing, minor admitted violating probation by "fail[ing] to abstain from marijuana."

The court also ordered minor's parents subject to joint and several liability. This timely appeal followed.

DISCUSSION

Neither appointed counsel nor minor has identified any issue for our review. Upon our own independent review of the record, we agree none exists. (*People v. Wende, supra*, 25 Cal.3d 436.) The juvenile court found minor liable, and his parents jointly and severally liable, to the victim for \$1,940.12 based on documentary evidence offered by the prosecution reflecting that the Civic had sustained a significant amount of collision damage to its front end and was subject to several hundred dollars in towing costs from the crime scene. This documentary evidence included a police report from the San Jose California Highway Patrol indicating the Civic had sustained collision damage to its front bumper and hood on the left side, among other areas. There was also documentary evidence reflecting the victim had paid towing charges in the amount of \$262.50 and had received an estimate from an Oakland body shop indicating it would cost \$1,677.62 to repair the damage to the Civic.

Neither the victim nor minor testified with respect to this evidence. However, minor was represented by competent counsel at the hearing, who presented several arguments on his behalf disputing his liability for restitution. Under these circumstances, we believe the juvenile court's order requiring minor to pay \$1,940.12 in restitution to the victim to cover his towing and repair costs, as well as to deter future criminality, was a proper exercise of the court's broad discretion. (Welf. & Inst. Code, § 730.6. See also *In re I.M.* (2005) 125 Cal.App.4th 1195, 1208-1209 ["Penal Code section 1203.1 confers broad power on the courts to impose conditions to foster rehabilitation and to protect public safety. [Citation.] This power includes ordering restitution, if such a condition is reasonably related to the crime of which the defendant was convicted or to future criminality."]; *People v. Foster* (1993) 14 Cal.App.4th 939, 946-947 [a defendant has the opportunity at a hearing to rebut the proposed restitution amount; however, he or she bears the burden of disproving the victim's restitution estimate]; *In re T.C.* (2009) 173 Cal.App.4th 837, 847.)

Thus, having ensured minor has received adequate and effective appellate review, we affirm the juvenile court's restitution order. (*People v. Kelly, supra*, 40 Cal.4th at pp. 112-113; *People v. Wende, supra*, 25 Cal.3d 436.)

DISPOSITION

The restitution order of September 17, 2012 is affirmed.

Jenkins, J.

We concur:

McGuinness, P. J.

Pollak, J.