

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

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

THE PEOPLE,
Plaintiff and Respondent,
v.
V.G.,
Defendant and Appellant.

A138907

**(Mendocino County
Super. Ct. No. SCUJ-JDSQ
131544115002)**

V.G. (Minor) appeals the jurisdictional findings underlying a dispositional order entered in a proceeding under Welfare and Institutions Code section 602.¹ Minor contends there were defects in the delinquency petition initiating these proceedings. He also contends there was insufficient evidence to support some of the juvenile court's findings on the allegations of the petition. In addition, he argues the matter must be remanded to correct his maximum term of confinement and certain clerical errors appearing in the written jurisdictional findings and orders. We agree with the last contention but reject all of the others.

¹ All undesignated statutory references are to the Welfare and Institutions Code.

FACTUAL AND PROCEDURAL BACKGROUND²

Minor has been the subject of a series of delinquency petitions dating back to August 2008. In May 2010, Minor was made a ward of the juvenile court and placed on formal probation subject to a number of conditions.

On April 11, 2013, the probation officer filed a fifteenth petition regarding Minor pursuant to section 777, subdivision (a), alleging Minor had committed a number of probation violations, including driving under the influence of marijuana and admitting to his probation officer that he had smoked marijuana.

On April 15, 2013, the Mendocino County District Attorney's office filed a petition under section 602, subdivision (a) alleging that Minor had violated the terms of his probation by failing to obey the law (count one). The petition also alleged that on April 9, 2013, Minor had committed felony false personation (Pen. Code, § 529, subd. (a)(3), count two), misdemeanor driving under the influence (Veh. Code, § 23152, subd. (a), count three), misdemeanor driving without a license (Veh. Code, § 12500, subd. (a), count four), and misdemeanor obstructing or resisting an officer (Pen. Code, § 148, subd. (a)(1), count five).

The juvenile court held a combined probation violation and contested jurisdictional hearing on the fifteenth and sixteenth petitions. The juvenile court found all counts true by a preponderance of the evidence for purposes of the probation violation allegations in the fifteenth petition and count one of the sixteenth petition. It found counts two, three, and five of the sixteenth petition true beyond a reasonable doubt. It found there was insufficient evidence to find count four true beyond a reasonable doubt.

On May 30, 2013, the juvenile court declared Minor would remain a ward and that all previous terms and conditions of probation were to remain in effect. The court ordered Minor to attend and complete the IMPACT program and ordered that he serve 120 days in Mendocino County Juvenile Hall. The court found the maximum term of confinement to be three years, one month.

² We set forth here the procedural history of the case below. Additional facts relevant to the issues on appeal are contained in the discussion section of this opinion.

Minor then filed a timely notice of appeal.

DISCUSSION

Minor raises a number of challenges to the jurisdictional findings and dispositional order. As we explain, we reject the majority of his arguments. We nevertheless agree the matter must be remanded to correct Minor's maximum term of confinement and to rectify certain clerical errors in the juvenile court's findings and orders after hearing.

I. *Minor Fails to Demonstrate Prejudice From the Charging of a Probation Violation in the Sixteenth Petition.*

Minor first contends the judgment on count one of the sixteenth petition must be reversed because there was insufficient evidence that he committed a charged criminal offense. According to Minor, since count one does not allege a violation of any specific criminal statute, there was insufficient evidence to support the juvenile court's finding. We disagree.

Count one of the sixteenth petition makes clear that it concerns a violation of probation, not a separate criminal offense. The petition's first count notes Minor is a ward of the court and alleges he "violate[d] term #8 of his probation orders, to obey all laws." As Minor himself puts it, "[t]he basis of the count is a violation of a court ordered condition of probation, not the commission of a criminal offense." Although Minor seeks to cast this claim as one of insufficiency of the evidence, his objection is a procedural one—he contends count one of the petition is improperly alleged and that it should have been brought as a separate petition under section 777.³ Since Minor made no objection

³ Minor's reply brief faults the People's argument that the sixteenth petition was a "hybrid petition" under sections 602 and 777. Minor points out that the People failed to cite any authority permitting such hybrid petitions and further claims his own research has revealed no "cases addressing hybrid petitions." Yet both Minor's opening and reply briefs rely heavily on the California Supreme Court's opinion in *In re Michael B.* (1980) 28 Cal.3d 548 (*Michael B.*). In that case, our high court specifically sanctioned the filing of "a single unitary petition" under both sections. (*Id.* at p. 554; accord, *In re Steven O.* (1991) 229 Cal.App.3d 46, 55-56 (*Steven O.*)). And though Minor cites repeatedly to the very page of the *Michael B.* opinion on which unitary petitions are discussed, he overlooks this authority when citing the case for an unrelated proposition, i.e., that due

on this ground in the court below, he would ordinarily forfeit any challenge to technical defects in the petition. (*In re Brian K.* (2002) 103 Cal.App.4th 39, 42-43 [failure to raise due process claim in trial court forfeits issue on appeal]; *In re Christopher S.* (1992) 10 Cal.App.4th 1337, 1344 [“procedural errors may not be raised at the appellate level if they were not raised in the trial court level”]; see *People v. Valtakis* (2003) 105 Cal.App.4th 1066, 1070-1072 [defendant who did not object in trial court forfeited claim that probation officer’s presentencing report made no finding of ability to pay fine and gave no notice of right to hearing].)

Minor nevertheless contends the error may be raised for the first time on appeal, arguing that the failure of an accusatory pleading to state a public offense is cognizable even absent an objection in the trial court. (*People v. Paul* (1978) 78 Cal.App.3d 32, 42 [where appellant contended information did not properly plead conspiracy, defect in pleading could be raised for first time on appeal].) Even if the claim is properly before us, it is meritless. Minor does not explain how he was prejudiced by the alleged error, and a reviewing court may not reverse a judgment “for any error as to any matter of pleading . . . unless, after an examination of the entire cause, including the evidence, the court [is] of the opinion that the error complained of has resulted in a miscarriage of justice.” (Cal. Const., art. VI, § 13; see *People v. Thomas* (1987) 43 Cal.3d 818, 832 [even assuming accusatory pleading was defective, reversal inappropriate where defendant failed to demonstrate he was misled to his prejudice].)

While Minor’s opening brief makes the perfunctory claim that there was insufficient evidence he committed a criminal offense, this portion of his brief includes no discussion whatsoever of the evidence before the juvenile court. “The law regarding appellate review of claims challenging the sufficiency of the evidence in the juvenile context is the same as that governing review of sufficiency claims generally.” (*In re Z.A.* (2012) 207 Cal.App.4th 1401, 1424.) “A party who challenges the sufficiency of the evidence to support a particular finding must summarize the evidence on that point,

process generally requires notice in the petition of the intent to aggregate the maximum term of confinement based on prior offenses. (*Michael B., supra*, 28 Cal.3d at p. 554.)

favorable and unfavorable, and show how and why it is insufficient.” (*Roemer v. Pappas* (1988) 203 Cal.App.3d 201, 208.) Minor has failed to do so here.⁴

II. *Sufficient Evidence Supports the Finding Minor Committed the Additional Acts Necessary for a Finding of Guilt on the False Personation Allegation.*

Minor next contends there was insufficient evidence to support the finding that he was guilty of false personation, an offense under Penal Code section 529, subdivision (a)(3).⁵ Relying on our recent opinion in *People v. Guion* (2013) 213 Cal.App.4th 1426 (*Guion*), Minor argues there was no evidence he committed an additional act beyond simply providing information regarding false identity. (See *id.* at p. 1434, fn. omitted [offense of false personation “requires an act separate from the false identification that occurred while the defendant was acting ‘in such assumed character’ ”].) Before addressing the merits of Minor’s contentions, we set forth the facts of the underlying offense.

A. *Facts*

On April 9, 2013, Minor was stopped by a California Highway Patrol (CHP) Officer Chris Dabbs after the car Minor was driving nearly hit the officer’s patrol car. Dabbs approached Minor’s car, and when Minor rolled down the window, the officer could smell marijuana. Minor did not have a driver’s license, but he identified himself as Jesus Antonio Benites Orozco and claimed his birth date was April 16, 1996. Officer Dabbs attempted to check Minor’s identity using the name he had been given, but he

⁴ This necessarily disposes of Minor’s claim that trial counsel was ineffective for failing to object in the trial court to the alleged defect in the sixteenth petition. No such claim can succeed without a showing of prejudice, and because Minor makes no such showing, his ineffective assistance claim must fail. (*In re M.V.* (2014) 225 Cal.App.4th 1495, 1528.)

⁵ That section provides in relevant part: “Every person who falsely personates another in either his or her private or official capacity, and in that assumed character does any of the following, is punishable pursuant to subdivision (b): [¶] . . . [¶] . . . [¶] (3) Does any other act whereby, if done by the person falsely personated, he might, in any event, become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture, or penalty, or whereby any benefit might accrue to the party personating, or to any other person.”

found no match. The officer again asked Minor for his date of birth, and this time Minor said it was May 29, 1996. When he again found no match, Officer Dabbs inquired again, and Minor told him his birthdate was May 30, 1996.

Officer Dabbs suspected Minor was under the influence of marijuana, and he asked the latter to get out of the car for a field sobriety test. Based on his training in drug recognition, the officer believed Minor's appearance and his slow response to questions were consistent with marijuana intoxication, and the officer asked Minor whether he had used any alcohol or drugs. Minor admitted he had smoked marijuana two to three hours earlier, after which Officer Dabbs placed him under arrest for suspicion of driving under the influence. Dabbs then took Minor to the Ukiah CHP office for a drug recognition evaluation (DRE), and the officer later transported Minor to Mendocino County Juvenile Hall. There, the officer filled out a pre-booking form using the name Minor had given him and the May 30, 1996 birthdate.

CHP Sergeant Braden Moffett, an expert drug recognition evaluator, performed a DRE on Minor at the Ukiah CHP office. Minor gave Sergeant Moffett the name of Jesus Antonio Benites and said his birthdate was May 29, 1996. Based on Minor's appearance, the odor of burnt marijuana on his person, Minor's performance on the DRE, and Minor's admission that he had smoked a bowl of marijuana and felt high, Moffett concluded Minor was under the influence of marijuana and was too impaired to operate a motor vehicle. Minor took a blood test, but the results were not yet available.

Juvenile hall supervisor Sheri Ferguson had worked at juvenile hall for 23 years and was familiar with Minor. By April 2013, Minor had been in juvenile hall 14 times. On April 10, 2013, Ferguson learned that Jesus Benites and another minor had come into juvenile hall the night before but had not yet been fully booked. Later that morning Ferguson was informed the person identified as Jesus Benites might actually be Minor. At the time, there was an outstanding warrant for Minor. Ferguson went to the room where "Jesus Benites" was being held, and she immediately recognized him as Minor.

Ferguson's partner had to call the hospital to which Minor had been taken so the hospital would have accurate information for medical clearance. Ferguson had to correct

the booking information in the juvenile hall computer system because it had created a “global jacket” with false information. The false booking for Benites had to be erased. She also called Officer Dabbs at the CHP office to tell him the identification he had been given was incorrect and that the suspect was actually Minor, who had an outstanding warrant. She did this so CHP could correct its records.

Ferguson testified that Jesus Benites Orozco was a real person whom she knew. He had been an inmate at juvenile hall and had a jacket in its old computer system but not in its new one. Ferguson corrected the information in the new computer system because otherwise it would have shown that Jesus Benites was in juvenile hall.

After hearing this evidence, the juvenile court ruled as follows: “As to Count 2, the false impersonation count, I do find evidence of false impersonation in this case sufficient beyond a reasonable doubt. I am not going to fix it as a felony or a misdemeanor at this time, I’ll fix that level at disposition. And I do find that he did falsely impersonate another actual person. [¶] And I reviewed the law on this a little bit because it’s kind of a different charge. There are some false impersonation cases that involve traffic stops. It’s not sufficient for them just to give the name, or somebody else’s name, there has to be some other additional act. [¶] Here I find that there were additional acts by him sticking with the name at the hospital and sticking with the name at the juvenile hall, being booked under that name. Went beyond just identifying himself to the officer. And it caused further complications for each of those agencies. And would have caused extreme complications to Jesus Benites if it had not been fixed. So I find there is sufficient evidence as to Count 2. But, again, whether it’s a misdemeanor or a felony I’ll fix that at disposition.”

B. *Minor’s Additional Acts Satisfy the Requirements of Penal Code Section 529, Subdivision (a)(3).*

Minor claims there was insufficient evidence he committed any additional act beyond repeatedly providing a false identity to law enforcement officers. He asserts he “did no additional act while acting in the assumed character.” Minor also contends the

evidence was insufficient because the juvenile court's factual assumptions are not supported by the record. We cannot agree with either contention.

As to the first, our examination of the record persuades us that there is substantial evidence of additional acts sufficient to satisfy the statutory requirements. (See *Guion, supra*, 213 Cal.App.4th at pp. 1434-1435 [whether evidence presented at trial suffices to establish violation of statute is subject to deferential review].) After falsely identifying himself as Benites, Minor participated in a field sobriety test and a DRE. The officers conducting these tests both concluded Minor had been driving under the influence and was too impaired to operate a motor vehicle. Moreover, Minor admitted he had smoked marijuana before driving, acknowledged he felt high, and gave a blood sample for testing. He was also pre-booked into juvenile hall under a false name. These acts went beyond merely maintaining the fiction that Minor was Benites and were not simply an “additional effort undertaken by [Minor] to substantiate [his] oral misidentification.” (*Id.* at p. 1435.)

Minor's acts might have rendered Benites liable to prosecution for driving under the influence had Minor's true identity not been discovered. (See Pen. Code, § 529, subd. (a)(3); *People v. Stacy* (2010) 183 Cal.App.4th 1229, 1235 [refusal to complete mandatory breath test or consent to blood testing could have exposed individual falsely personated to liability].) “Indeed, such charges were ultimately levied against [Minor] when [his] true identity was learned.” (*Id.* at p. 1236.) This suffices to sustain a finding that Minor, while in his false role, committed an additional act that might have caused liability to Benites.⁶ (*Guion, supra*, 213 Cal.App.4th at p. 1435.)

⁶ The juvenile court's finding as to what constituted the additional acts refers to Minor's “sticking with the name at the hospital and sticking with the name at the Juvenile Hall, being booked under that name.” It is not entirely clear what the court meant by this statement, but any lack of clarity in the court's findings is unimportant for our purposes. The court was only required to find the allegations true and had no obligation to make more specific findings. (§ 702; see *In re Billy M.* (1983) 139 Cal.App.3d 973, 981.) Moreover, our sole function on appeal is to determine “ ‘whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’ ” (*In re Ryan N.* (2001) 92 Cal.App.4th 1359, 1371.) As an appellate court, “[w]e review the

Turning to Minor's second contention, we disagree that the juvenile court's "factual assumptions" were not supported by the record. Minor complains the evidence that he went to the hospital "is inferential at best[.]" But Ferguson testified that her partner called the hospital to which Minor had been taken. As the trier of fact, the juvenile court could reasonably infer from this testimony that Minor had been taken to the hospital, and on appeal we are not free to substitute our own inferences or deductions for those of the trial court. (*In re Ryan N.*, *supra*, 92 Cal.App.4th at p. 1373.)

Minor also takes issue with the juvenile court's observation that his actions "caused further complications for each of those agencies." Minor's objection is not well taken. As the California Supreme Court has explained, one purpose of Penal Code section 529 is "to ensure the integrity of judicial and governmental processes." (*Lee v. Superior Court* (2000) 22 Cal.4th 41, 45.) The juvenile court's remark seems have been nothing more than a comment on how Minor's false personation had affected the agencies he attempted to deceive; it was not a finding that the confusion he generated constituted the additional act required by the statute. In any event, such secondary remarks do not negate the juvenile court's findings. (*In re Ernesto H.* (2004) 125 Cal.App.4th 298, 315.)

III. *Substantial Evidence Supports the Finding Minor Impersonated an Actual Person.*

Seizing on various discrepancies in how witnesses referred to the name he falsely offered as his own, Minor argues there was insufficient evidence that the individual he impersonated was a real, not fictitious, person. (See *Lee v. Superior Court*, *supra*, 22 Cal.4th at p. 45 [Pen. Code, § 529 "contemplates impersonation of a real or actual (as opposed to fictitious) person"].) As explained above, however, Ferguson testified she

correctness of the challenged ruling, not of the analysis used to reach it." (*In re Baraka H.* (1992) 6 Cal.App.4th 1039, 1045.) If the juvenile court reached the right decision, even via erroneous reasoning, its order is entitled to affirmance. (*Ibid.*; *In re Abdul Y.* (1982) 130 Cal.App.3d 847, 861.)

knew a Jesus Benites who had been an inmate at juvenile hall.⁷ That testimony is sufficient to sustain the juvenile court's finding that Minor impersonated a real person.

Minor also attempts to create an issue from the fact that the witnesses below did not always use the full false name he gave to law enforcement and from the sixteenth petition's use of the spelling "Benitez" for the false last name instead of "Benites." This argument is meritless. We note that Minor himself appears to have been responsible for some of the variations. He told Officer Dabbs his name was "Jesus Antonio Benites Orozco" but identified himself to Sergeant Moffett as "Jesus Antonio Benites." Furthermore, it is hardly uncommon for people to omit middle names when referring to others. In addition, the Spanish surnames Benites and Benitez are pronounced identically, and Minor points to nothing in the record demonstrating that the spelling used in the sixteenth petition (Benitez) was anything other than a typographical or transcription error.

IV. *Minor Forfeited Any "Statutory Preemption" Argument by Failing to Raise it Below.*

Minor next raises an argument not made below. He contends the finding that he resisted an officer in violation of Penal Code section 148 must be reversed because it is "statutorily prohibited." Specifically, Minor contends he could not be found guilty under that statute because his conduct is governed by other provisions of the Penal Code. We conclude Minor forfeited this argument by failing to raise it before the juvenile court.

Minor points to nothing in the record showing he raised this argument in the court below. On appeal, he argues for the first time that he was, in essence, incorrectly charged. In his view, he should not have been charged under Penal Code section 148, but rather under either Penal Code section 853.6 or 148.9. The sixteenth petition clearly

⁷ In his reply brief, Minor faults the People for failing to note there was an objection to Ferguson's testimony regarding Benites. In fact, when Ferguson was asked whether "Jesus Benites Orozco" was a real person, defense counsel objected on grounds of foundation. The juvenile court sustained the objection "at this point." The requisite foundation was later elicited from Ferguson, who then testified that she knew a former juvenile hall inmate named Jesus Benites.

alleged, however, that Minor was guilty of the misdemeanor of obstructing or resisting an officer, a “violation of Section 148(a)(1) of the California Penal Code[.]”

It is well established that a minor may challenge alleged defects in a section 602 petition by demurrer. (E.g., *In re Jamil H.* (1984) 158 Cal.App.3d 556, 560; *In re Rudolfo A.* (1980) 110 Cal.App.3d 845, 847, 857.) The failure to demur waives any defects apparent on the face of the pleading. (*People v. Jennings* (1991) 53 Cal.3d 334, 356-357.) Minor’s claim that he was charged under the wrong statute was a defect appearing on the face of the petition, and it was therefore forfeited by his failure to demur or otherwise object at any time below.⁸ (See *People v. Booker* (1994) 21 Cal.App.4th 1517, 1520-1521 [defendants who claimed penalty for their alleged crimes was governed by Unemp. Ins. Code, § 2117 rather than Unemp. Ins. Code, § 2122 waived defect by failing to demur to information].) We note that Minor’s argument is not that the petition does not state a public offense, but instead that it states the *wrong* public offense. (Cf. *People v. Paul* (1978) 78 Cal.App.3d 32, 42 [claim that charging document does not state a public offense may be raised for first time on appeal].) Because we conclude the issue is not properly before us, we will not address the merits.

V. *Minor’s Maximum Term of Confinement Must Be Corrected.*

The parties agree Minor’s maximum term of confinement (MTC) must be corrected to account for the fact that the juvenile court stayed the four-month term for count five (obstructing a peace officer) because it was based on the same conduct as count two (false personation). (See Pen. Code, § 654.) Although the court stayed the time, it erroneously adopted the probation department’s earlier calculation of the MTC as three years, one month. The parties agree Minor’s MTC should be corrected to two years, nine months. We will therefore remand the matter to the juvenile court so that it may correct the MTC accordingly.

⁸ We may conclude an issue has been forfeited even if the respondent does not argue forfeiture. (See *S.M. v. Los Angeles Unified School Dist.* (2010) 184 Cal.App.4th 712, 722 [appellate court may find issue forfeited even though respondent addresses issue on the merits].)

This does not end the matter, because Minor also argues the MTC must be corrected to remove time attributable to prior petitions. He contends the sixteenth petition failed to provide notice of the intent to aggregate the terms, and therefore the MTC is limited to what is set forth in the sixteenth petition. We reject Minor's argument, because as the People correctly point out, he has failed to demonstrate any prejudice.

No particular form of notice of intent to aggregate terms is required. (*Steven O.*, *supra*, 229 Cal.App.3d at p. 56.) Obviously, providing such notice in the current petition satisfies the requirement. (*Ibid.*) If the petition does not contain notice of intent to aggregate, the appellant bears the burden of showing prejudice under the harmless beyond a reasonable doubt standard of review. (*Id.* at p. 57; *Michael B.*, *supra*, 28 Cal.3d at p. 555.) If prejudice is shown, then the matter is remanded for redetermination of the maximum permissible term of confinement “ ‘by means of procedures which give fair notice to the minor and an opportunity to be heard.’ [Citations.]” (*Ibid.*)

In *Steven O.*, *supra*, 229 Cal.App.3d 46, the court held that even though the petition failed to provide the minor with notice of intent to aggregate, no prejudice resulted because of the following four reasons: (1) the minor denied the allegations contained in the petition and the matter proceeded to a contested jurisdictional hearing; (2) a written probation report expressly recommending aggregation was prepared prior to the disposition hearing; (3) at the detention hearing, neither the minor nor his counsel registered any objection to or surprise with the recommendation, implying they “knew and understood the court's power and intention to aggregate time;” and (4) the only argument they presented regarding disposition was that the minor should be committed to a local camp rather than to the Department of Juvenile Justice. (*Id.* at p. 57.)

Steven O. provides helpful guidance here. In this case, the fifteenth petition stated Minor's MACT (maximum aggregated confinement time) was “2 years, 3 months.” The court and counsel agreed the fifteenth and sixteenth petitions would be heard together. Minor denied the allegations in the sixteenth petition, and a combined, contested jurisdictional/probation violation hearing occurred. Except for count four of the sixteenth petition, the juvenile court found true the substantive allegations of the two petitions.

The probation officer then prepared a dispositional report before the disposition hearing was held. It described the offenses contained in all 16 petitions regarding Minor. It set forth the “Maximum Aggregated Confinement Time,” which it put at “3 years, 1 month.” At the disposition hearing, the juvenile court said it would follow the recommendations contained in the dispositional report, save that it would stay time on count five. Neither defense counsel nor Minor raised any objection to the MCT calculated in the report. Defense counsel’s only objection to the term of confinement concerned staying time for count five of the sixteenth petition. Here, as in *Steven O.*, we conclude that the sixteenth petition’s failure to contain express notice of intent to aggregate was harmless beyond a reasonable doubt.⁹ (*Steven O.*, *supra*, 229 Cal.App.3d at p. 57.)

VI. *The Juvenile Court’s Findings and Orders After Hearing Must Be Amended to Correct Clerical Errors.*

Finally, Minor contends the jurisdictional order should be amended to correct certain clerical errors. The People agree in part. Both parties agree that the jurisdictional findings and orders filed on June 17, 2013, erroneously show the juvenile court found the false personation violation a felony, when it expressly determined it was a misdemeanor. They further agree the MCT should be two years, nine months. Minor also asks that the findings and orders be amended to note that count four of the sixteenth petition was dismissed for insufficient evidence, and the People do not object to this request. The parties are also in accord that in the section of the findings and orders document entitled “Court Findings,” the checkmarks in the first and third boxes should be removed because they suggest Minor either admitted the allegations or entered a plea of *nolo contendere*, when in fact the findings were the result of a contested hearing.

⁹ In his reply brief, Minor argues that *Michael B.*, *supra*, 28 Cal.3d 548 does not permit a harmless error analysis. In fact, the Supreme Court applied a harmless error analysis in that very case. (*Id.* at pp. 555-556.) And while Minor states that no published case has applied *Steven O.*’s harmless error analysis since 1998, Minor cites no case that has rejected *Steven O.*’s use of harmless error analysis in this context. Where an argument is unsupported by legal authority “the court may treat it as waived, and pass it without consideration.” (*People v. Stanley* (1995) 10 Cal.4th 764, 793.)

Minor argues that the checkmarks on the fourth, seventh, and eighth boxes should be removed because the juvenile court did not make these findings at the jurisdictional hearing. Minor does not explain why the checkmarks on the order are not themselves a sufficient indication the court made the required findings. (See *In re Kenneth H.* (1983) 33 Cal.3d 616, 620-621.) Nor does he explain what, if any, prejudice he might suffer from the alleged error. We therefore reject this argument.

DISPOSITION

The matter is remanded to the juvenile court with instructions to correct the record to reflect that Minor's MTC is two years, nine months and to correct the clerical errors identified in part VI of this opinion. In all other respects, the judgment is affirmed.

Jones, P.J.

We concur:

Simons, J.

Bruiniers, J.