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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

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

THE PEOPLE,

Plaintiff and Respondent,

v.

K.T.,

Defendant and Appellant.

A140257

(Contra Costa County  
Super. Ct. No. J11-00369)

Minor K.T. appeals from the dispositional order of the juvenile court following his admission of a probation violation that he be recommitted to the Youth Offender Treatment Program (YOTP) to complete all phases of the program. Appellant's court-appointed counsel has raised no issues and asks this court for an independent review of the record to determine whether there are any issues that would, if resolved favorably to appellant, result in reversal or modification of the judgment. (*People v. Kelly* (2006) 40 Cal.4th 106; *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*); see *Smith v. Robbins* (2000) 528 U.S. 259.) Counsel attests that defendant was advised of his right to file a supplemental brief. We have received no such brief. After independently reviewing the record, we conclude that no arguable issues are presented for review and affirm the judgment.

## I. PROCEDURAL HISTORY

An original Welfare and Institutions Code section 602 wardship petition charged appellant, age 15, with the commission of carjacking (Pen. Code, § 215, subd. (a); count one), robbery (Pen. Code, §§ 211/212.5, subd. (c); count two), and evading a peace officer (Veh. Code, § 2800.2, subd. (a); count three), all occurring on March 1, 2011. The petition further alleged appellant used a deadly weapon, a knife, in the commission of the carjacking and robbery offenses. A supplemental petition filed on April 14, 2011, charged appellant with a fourth count—the commission of a robbery on January 24, 2011 (Pen. Code, §§ 211/212.5, subd. (c)), with an enhancement for the use of a deadly weapon, a pellet gun. On May 31, 2011, the court granted leave to amend the petition to add a fifth count for misdemeanor petty theft (Pen. Code, §§ 484/488), and appellant entered an admission to that count and to the carjacking charge of count two, as well as to a related personal use of a weapon enhancement. The remaining charges and enhancements were dismissed. On August 2, 2011, appellant was adjudged a ward of the court and ordered to complete the Contra Costa County YOTP. Various conditions of probation were also imposed, the maximum period of confinement time was determined to be the earliest of 9 years 267 days, or age 25, and custody credits were declared.

Appellant completed the YOTP program and was released into the “Phase IV,” community release, part of the program on October 25, 2012, with an order that he be on home supervision for 90 days. On November 30, 2012, a violation of probation petition was filed, alleging appellant cut off his electronic monitoring strap and left home without permission on November 28, 2012. A bench warrant was issued for his arrest. Appellant was arrested on February 10, 2013. He was arraigned on the bench warrant and ordered into detention on February 13, 2013.

Appellant admitted the violation of probation. He was ordered to complete an additional 90 days at YOTP, with wardship and the court’s previous orders to continue. On June 25, 2013, appellant was released to his mother on juvenile electronic monitoring for 90 days and completion of Phase IV of the YOTP program. At the end of that period,

wardship was continued with no termination date, and appellant was ordered to continue on home supervision for 30 days.

A notice of a violation of probation was filed on October 15, 2013, alleging that appellant had violated his curfew by being leaving the house at 1:22 a.m. for a 20-minute period on October 5, 2013, and by virtue of his having committed a robbery of a fellow student at school. On October 18, 2013, the court struck the second allegation concerning the robbery, and appellant admitted violating his probation by virtue of the curfew violation.

The probation department recommended that appellant's wardship be continued and that appellant be released on home supervision electronic monitoring for 30 days. At the dispositional hearing on November 1, 2013, the court rejected that recommendation, recommitted appellant to the YOTP program, and ordered him to complete the full program.

Appellant filed a timely notice of appeal on November 13, 2013.

## **II. FACTUAL SUMMARY<sup>1</sup>**

### ***A. The Carjacking and Petty Theft Substantive Offenses***

Appellant and minor M.M. stole an alcoholic beverage from a Safeway supermarket in Pittsburg on January 24, 2011. When approached by the store manager, appellant took a BB gun from his waistband and handed it to M.M., who brandished it at the manager. They then got on their bikes and rode off. BART police later detained them, and the store manager identified them during an in-field show-up.

On March 1, 2011, appellant, R.M., and another unidentified suspect ordered a pizza for delivery. When the delivery man arrived, R.M. pointed a rifle at the victim and appellant approached him with a knife. R.M. took the victim's car keys and appellant took \$47 from his pocket. The three ran to the victim's vehicle and drove off, with R.M. driving. Appellant was arrested after a pursuit of the vehicle.

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<sup>1</sup> The facts are taken from the probation reports filed in conjunction with each of the relevant proceedings.

***B. The First Probation Violation—Removal of Electronic Monitoring Strap***

On November 28, 2012, approximately one month after being released into the community supervision phase of the YOTP program, appellant cut off his ankle monitor and left home without permission. A little over two months later, police officers stopped him as they were searching for a suspected narcotics dealer. He initially agreed to a pat-search, but then immediately ran off. He ignored the officers' commands to stop, but was eventually taken into custody after a short foot pursuit.

***C. The Second Probation Violation —Violation of Curfew***

While on release on the home supervision electronic monitoring phase of the YOTP program, on October 5, 2013, appellant left home at approximately 1:22 a.m. and returned at 1:42 a.m. A few days later, he allegedly took part in a robbery of a fellow student at Antioch High School, where he and two other friends took a chain necklace and cell phone from a fellow student and threatened to assault him if he reported the theft. Appellant and his accomplices accosted the victim a second time in the bathroom, threatened him with force, and took a second necklace from him. Appellant was found in possession of the phone three days later, and arrested.

***D. The Juvenile Court's Dispositional Ruling***

In rejecting the probation department's recommendation that appellant be placed on the home supervision electronic monitoring program for an additional 30 days, the court reviewed the facts alleged in the original petition, and observed: "Here you are again, doing it yet again, in a school setting. It's shocking to me. You have learned nothing while on probation. You are right back to square one. It's right where you started." The court found appellant had been offered substantial services through the YOTP program, services that would no longer be available to him once he entered the adult criminal justice system. The court rejected the probation department's home supervision recommendation in this case, explaining that appellant was "well beyond the control" of his family, and "a threat and risk to the community." In addition to ordering that appellant be placed in the YOTP and complete all phases of the program, the court

ordered appellant to attend a parenting class at YOTP if possible<sup>2</sup> and have victim awareness counseling.

### III. *WENDE FINDINGS*

Appellant was represented by counsel throughout the proceedings.

Appellant was apprised of his right to file a supplemental brief and has not done so.

Before appellant admitted the misdemeanor petty theft allegation, the carjacking-related weapon enhancement allegations, and the two probation violations, the court advised him of the constitutional rights he would be waiving and of the direct consequences of his admissions. Appellant expressly waived his constitutional rights, and knowingly and voluntarily admitted the allegations.

There was no dispositional error.

This court has reviewed the entire record and finds no arguable legal issues that require further briefing.

The judgment and order appealed from are affirmed.

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Margulies, Acting P.J.

We concur:

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Banke, J.

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Becton, J.\*

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<sup>2</sup> Appellant's counsel advised at the hearing that appellant was going to become a father in the next six to eight months.

\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.