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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

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

THE PEOPLE,
Plaintiff and Respondent,
v.
Deangelo C.,
Defendant and Appellant.

A140369

(San Francisco City & County
Super. Ct. No. JW06-6625)

Delinquent minor Deangelo C. appeals from the order of the San Francisco Juvenile Court recommitting him to the Department of Juvenile Facilities (DJF, formerly the California Youth Authority). This court appointed counsel, who, after examining the record and finding no issues to argue, asks this court for an independent review of the record in accordance with *People v. Wende* (1979) 25 Cal.3d 436. Counsel also declares that she advised the minor that he may file a supplemental brief. The minor has elected not to do so.

BACKGROUND

In 2011 this court affirmed Deangelo’s initial commitment. Our opinion includes a summary of the history up to that point.

“On August 16, 2010, 17-year-old Deangelo C. admitted the allegation of a subsequent petition that he committed assault by means of force likely to produce great

bodily injury upon a peace officer at the juvenile hall. Three days later, Deangelo attacked another juvenile hall officer. On August 30, Deangelo admitted the allegation of another subsequent petition that he committed the second assault by means of force likely to produce great bodily injury. On September 13, the juvenile court of San Francisco ordered Deangelo committed to the Division of Juvenile Justice (DJJ) in the Department of Corrections and Rehabilitation for a period not to exceed 11 years and two months.

“ ‘No ward of the juvenile court shall be committed to the (DJJ) unless the judge of the court is fully satisfied that the mental and physical condition and qualifications of the ward are such as to render it probable that he will be benefited by the reformatory educational discipline or other treatment provided by the (DJJ).’ (Welf. & Inst. Code, § 734.) And the juvenile court’s decision may be overturned only if we conclude the court abused its dispositional discretion. (*In re Eddie M.* (2003) 31 Cal.4th 480, 507; *In re Carl N.* (2008) 160 Cal.App.4th 423, 431–432.) Deangelo’s sole contention is that his commitment constituted an abuse of the juvenile court’s discretion because ‘there was no evidence . . . of probable benefit from that commitment.’ We disagree.

“By the time of Deangelo’s admission of the first assault on August 16, Deangelo was advised that he already had ‘a lot of petitions sustained,’ and would be facing a disposition that might include a confinement period of 11 years and two months. Prior to that date, Deangelo might have been contemplating asking the court to place him with his mother. If he was, those hopes evaporated with the assaults on juvenile hall staffers. Moreover, the court had before it a recent psychological evaluation of Deangelo from his most recent out-of-state placement, in which it was concluded that Deangelo’s ‘escalating levels of intervention . . . strongly suggests that a return home and community setting would place others at high risk of harm and to increase the probability of additional hospitalizations and incarcerations.’ The probation officer agreed: ‘To release this minor to the public continues to place the public at great risk to their personal safety.’ And when the Multidisciplinary Team considered Deangelo’s case, it concluded that he should be committed to DJJ because, ‘based on his long history of violent assaults and continued physical threats,’ he ‘requires [a] secure setting. The minor continues to be a danger to

self and the community.’ It thus appears that there could be no realistic hope of a familial placement.

“Concerning past placements, all had failed. In-state, out-of-state, none had been successful in halting Deangelo’s escalating history of violence and anti-social behavior. It is hard to disagree with the probation officer’s assessment that ‘Clearly the minor has no regard for authority.’

“The probation officer’s recommendation to the juvenile court was that ‘it is appropriate and a matter of public safety that the minor be committed to the Department of Juvenile Justice, as is the recommendation of the MDT committee. The Probation Department, the MDT Committee, and this officer strongly support this recommendation, as it is apparent that the minor is in need of a locked, highly structured facility where the minor will not be able to harm the public and receive the help he needs if he avails himself to the services they provide,’ and because ‘the minor has failed all other alternatives.’

“All of this was taken into account by Deangelo’s counsel when he argued to the court at the dispositional hearing. He had already submitted a ‘Memorandum of Law Regarding Length of DJJ Commitment’ that was obviously predicated on the assumption that Deangelo *would* be committed, the only question being for how long. At the hearing, Deangelo’s counsel argued only for the court fixing the lowest possible period of confinement. He concluded his argument by telling the court: ‘I regret that we have no other options that we feel would be appropriate that we could propose to the Court and as alternatives to the Department of Juvenile Justice. Again, the writing is on the wall at this point and we don’t want to prolong his stay any longer than necessary.’

“Counsel anticipated what the prosecutor would argue to the court: ‘In the past six years this young man has been able to amass 13 sustained petitions. 11 victims are in his wake. He was given an opportunity through Judge Lam and without my objection to go to George Junior because the recommendation then was DJJ That didn’t last long. He was returned and they didn’t want to take him back. And of the 11 victims, the latest two were Mr. Munsell and Mr. Munson, counselors [at juvenile hall]. Mr. Munson was

severely, savagely assaulted. [¶] In the efforts of my myself and Mr. Lazarus [defense counsel] and Judge Lam, we gave the opportunity to Deangelo to go to George Junior in Pennsylvania. What happened is that he has returned here and assaulted our own. And I'll tell you, Judge, right now I take some responsibility for that and I apologize to probation. Because if he were sent to DJJ, Mr. Munson and Mr. Munsell would not have . . . been . . . victims . . . of this young man. However, at the time, all of us thought that the 16 and a half year old could pull it off at George Junior. Now he's 17 and a half and he's proved himself again of being violent in a structured setting.'

“Confronting this history, Deangelo's appointed counsel understandably tries to reframe the issue. She argues, with some plausibility, that Deangelo is the victim ‘of a social services system that has failed him again and again.’ As she views it, Deangelo's recent diagnosis of post traumatic stress and bipolar disorders explains everything. Going back to when Deangelo was being handled as a dependent, she sees his downward spiral as having commenced long before he was reclassified as a delinquent. All he really needs now is medication and therapy.

“Deangelo's trial counsel did argue ‘my client's psychiatric state of mind,’ but only in the context of trying to reduce the length of the inevitable DJJ commitment. Even in this limited form, it was rejected by the juvenile court. We therefore cannot imagine the juvenile court accepting the much broader argument now being advanced. Even Deangelo's current counsel is forced to concede that, assuming Deangelo was willing to take whatever medicines were prescribed, there is no real answer to the probation officer's fear that ‘allowing [Deangelo] to stay in the community would make it difficult to monitor any medication prescribed for him’ That would not be a problem at DJJ. Moreover, a failure to diagnose would not completely explain Deangelo's increasingly serious assaultive conduct. He admitted to the court that he needed anger management training. That too can be had at DJJ. Finally, DJJ would be far better than a local placement—assuming one could be found—at reducing Deangelo's problem in dealing with alcohol and substance abuse. No abuse of discretion is established on this record.

(In re Eddie M., supra, 31 Cal.4th 480, 507; In re Carl N., supra, 160 Cal.App.4th 423, 431–432.)” *(In re Deangelo C. (July 29, 2011, A130069) [nonpub. opn.]*.)

Over the probation officer’s protest, appellant was paroled from DJF; his wardship was redeclared and he was admitted to probation by the juvenile court. The probation officer’s periodic review report in May 2013 advised that appellant was “doing very well.” The report for July noted that appellant had “encountered numerous obstacles” and “struggled with his living situation, employment and personal relationships.” Still, matters were sufficiently improved for the court to accept the probation officer’s recommendation that appellant’s GPS monitoring device be removed.

But in October 2013 appellant was taken into custody and detained for violating various terms of his probation. That same month, appellant admitted the allegations of a supplemental petition filed in accordance with Welfare and Institutions Code section 777. Because one of the allegations involved threats and violence, the probation officer advised the court: “the probation department fears for the safety of the community and the protection of properties and others. As [appellant] continues to engage in violent behavior and terrorist threats, the probation [officer] contends that it is becoming impossible to contain [appellant’s] criminal activities within the parameters of his probation conditions” Because “[r]eleasing him back to the community is not the answer,” the recommendation, as “a matter of immediate and urgent necessity for the protection . . . of others,” was for appellant to be “recommitted to DJJ for violations of probation.”

At the conclusion of the November 6, 2013 dispositional hearing, the juvenile court accepted this recommendation and committed appellant for a period not to exceed one year.

REVIEW

The independent review shows that appellant received all notices required by law. He was at all times ably represented by independent counsel. The record shows that he consulted with counsel before admitting the allegations of the supplemental petition. The

record further shows his admission was not made until after he received the appropriate warnings and admonitions.

The recommitment was an authorized disposition (Welf. & Inst. Code, § 731, subd. (a)(4) and, considering appellant's extensive history, was not an abuse of the juvenile court discretion.

We have identified no issues that require briefing.

DISPOSITION

The dispositional order is affirmed.

Richman, J.

We concur:

Kline, P.J.

Brick, J.*

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