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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

In re Derrick W., a Person Coming Under  
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

Derrick W.,

Defendant and Appellant.

A140525

(Contra Costa County  
Super. Ct. No. J13-01176)

On October 24, 2013, the Contra Costa District Attorney (District Attorney) filed a delinquency petition pursuant to section 602 of the Welfare and Institutions Code, alleging that Derrick W., a minor, had committed two felony counts of second degree robbery, unlawfully taking personal property by force or fear. (Pen. Code, §§ 211, 212.5, subd. (c)).<sup>1</sup> The charges stemmed from an October 22, 2013, incident in which the minor—in the company of a group of juvenile males—approached two younger high school students walking home from school and demanded that one student empty his pockets. After receiving \$5.00 from the boy, the minor and other juveniles followed the two students, and Derrick later ordered the second student to empty his pockets as well. When the boy refused, one of the juveniles with Derrick reached into the boy’s pocket

<sup>1</sup> All statutory references are to the Penal Code unless otherwise specified.

and took his cell phone. In an ensuing altercation, the second student was knocked to the ground and his glasses were broken. Derrick then returned the \$5.00 to the first student and fled the scene.

On November 1, 2013, the petition was amended to include a misdemeanor charge of grand theft from a person (§ 487, subd. (c)). On that same date, Derrick pled no contest to the misdemeanor count, and the court dismissed the two felonies. Thereafter, the minor was placed on home supervision with juvenile electronic monitoring pending disposition. However, on November 21, 2013, Derrick was again detained in juvenile hall after being suspended from school for allegedly attempting to coerce a female student into performing a sexual act on him, a violation of his home supervision contract. No additional charges were filed based on this second incident.

At the December 6, 2013, dispositional hearing with respect to the sustained misdemeanor, Derrick's attorney argued in favor of home supervision for the minor. The Contra Costa County Probation Department (Probation) recommended a six-month commitment to the Orin Allen Youth Rehabilitation Facility. The District Attorney asked the juvenile court to follow Probation's recommendation or consider out-of-home placement. Ultimately, the juvenile court declared Derrick a juvenile court ward, removed him from the custody of his mother, and ordered him into an out-of-home placement where he could receive therapy, counseling, and treatment.

Counsel for appellant has filed an opening brief arguing no issues and asking this court for an independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. We have conducted the requested review and conclude that, generally speaking, there are no arguable issues. Appellant was represented by counsel throughout the proceedings. He was informed of the opportunity to file a supplemental brief on appeal, but has not done so. His no contest plea was validly entered after full advisement of rights and consequences. The evidence was sufficient to support the juvenile court's out-of-home placement order, and there was no abuse of discretion.

We note, however, that—although the juvenile court advised Derrick during the jurisdictional hearing that he could be confined for a maximum period of 12 months—

when it ordered the minor into out-of-home care at the December 6, 2013, dispositional hearing, it did not specify the minor's maximum term of confinement (MTC) in either its oral pronouncement or its written order as required by law. (*In re David H.* (2003) 106 Cal.App.4th 1131, 1133; see also Welf. & Inst. Code, § 726, subd. (d); Cal. Rules of Court, rule 5.795(b).) Moreover, the court failed to calculate the predisposition custody time to be credited against Derrick's MTC, despite the fact that the minor had been detained in juvenile hall on two separate occasions prior to disposition. (See *In re Deborah C.* (1981) 30 Cal.3d 125, 140 [because the period of physical confinement under the Juvenile Court Law may not exceed the maximum term of imprisonment for an adult convicted of the same offenses, predispositional custodial credits "must be given to the extent the minor's total period of confinement would otherwise exceed the statutorily defined 'maximum term of imprisonment' for one convicted as an adult"]; see also *In re Lorenzo L.* (2008) 163 Cal.App.4th 1076, 1079 [juvenile court may not delegate duty to calculate predispositional secure custody credits].)

Under these circumstances, we would normally remand the matter so that the juvenile court could amend its dispositional order to include a determination of Derrick's MTC and secure custody credits. Derrick, however, currently has a second appeal pending before this court, challenging a subsequent dispositional order which was entered after he was returned to custody for violating the terms of his probation while in placement. (*In re Derrick W.* (Nov. 25, 2014, A141276).) Because we today remand that case so that Derrick's MTC and secure custody credits can be determined as of that later dispositional date, remand of these proceedings would be an idle act.

The judgment is affirmed.

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REARDON, J.

We concur:

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RUVOLO, P. J.

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RIVERA, J.