Filed 2/26/15 In re D.S. CA1/2

NOT TO BE PUBLISHED IN OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 TWO

In re D.S., a Person Coming Under the Juvenile Court Law.	
THE PEOPLE, Plaintiff and Respondent, v. D.S., Defendant and Appellant.	A140914 (Marin County Super. Ct. No. JV25675E)

I. INTRODUCTION

D.S., who was 15 years old at the time of this incident, appeals from the juvenile court's dispositional order following his admission to one count of battery against a victim or witness and one count of battery against a second individual, both misdemeanors. He was on probation and living at home at the time, having previously admitted to separate incidents involving embezzlement, battery, and burglary. The juvenile court removed him from his mother's custody and ordered him placed out of the home. On appeal, D.S. contends the juvenile court abused its discretion in failing to consider less restrictive placements and failing to make required educational findings. D.S. also contends the court erred in accepting his admissions without his counsel's consent. We will affirm the dispositional orders but remand to the juvenile court for educational findings.

II. FACTUAL AND PROCEDURAL BACKGROUND

On November 8, 2013, D.S. was riding the bus in Novato, California, with other minors including J.A. J.A. was familiar with D.S. because D.S. had assaulted him a year ago. D.S. was angry that J.A. had "told on [him]" and got him locked up.

When J.A. and his friend A.M. got off the bus, D.S. approached them from behind. D.S. told J.A., " 'I'm gonna beat your ass cuz, I got locked up because of you last year!' " D.S. repeatedly called J.A. names and challenged him to fight. J.A. tried to avoid D.S., but D.S. swung his right arm and hit J.A. in the face with a closed fist. A.M. was also struck by the punch. A cell phone video recording of the incident was played at the contested dispositional hearing.

D.S. admitted to one count of misdemeanor use of force or violence against a victim or witness (Pen. Code, § 140, subd. (a)) and one count of misdemeanor use of force or violence against a person (Pen. Code, § 242).

In its disposition report, the Marin County Juvenile Probation Department (the department) recommended that D.S. be placed out of the home. The disposition report listed D.S.'s contacts with law enforcement before he was declared a ward: (1) April 2011 sexual battery against two female classmates, resolved by diversion; (2) June 2012 breaking into parked vehicles and providing false information to officers, dismissed; (3) July 2012 spraying graffiti, dismissed; and (4) October 2012 possession of marijuana, dismissed. In October 2012, he admitted one count of theft by embezzlement (Pen. Code, § 508) and was declared a ward of the court. In December 2012, he admitted to challenging the victim to fight and punching him in the face (Pen. Code, § 242). In May 2013, he admitted to stealing a bottle of alcohol from a grocery store (Pen. Code, § 459). Since being declared a ward, D.S. had accumulated 15 new referrals to probation, ranging from assault, burglary, public intoxication, and four citations for violation of probation. In connection with the instant offenses, D.S. was booked into juvenile hall on November 12, 2013. His overall compliance there was rated "fair."

Prior to November 12, 2013, D.S. had been living at home with his mother and stepfather. D.S. was in 10th grade but school was not going well. He had missed 16 out

of 56 days of instruction that year, had been suspended twice, and had a 1.85 grade point average. He had an IEP, but it had not been submitted to the department. D.S. stated that he began smoking marijuana in sixth grade and began drinking alcohol in seventh grade. His mother stated that she drank alcohol and used cocaine while she was pregnant with D.S. He was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) when he was five. He took medication for several years until he began to have suicidal thoughts. His mother reported that, although she provided everything he needed, D.S. continued his delinquent behavior and could be "completely out of control." She feared the direction her son was going, and was afraid that he would harm someone or someone would harm him. She supported the department's efforts to provide D.S. with more structure.

The department's case review committee concluded that D.S. "lacks structure, discipline, self-awareness and the skills to remain in the community and be successful at keeping himself out of trouble with the law. He was offered anger management, counseling through the Portal Program, CSOC, wrap around, employment services, recreational opportunities and intensive supervision, which have proven to be unsuccessful in deterring his behavior. [¶] Probation believes that a detailed plan to complete [D.S.]'s education and put a semblance of structure in his life will aid in keeping [D.S.] off the streets in the future. Probation believes we can find a program that will give [D.S.] the motivation and skills to stay out of our adult system and live a productive adult life." Further, "[p]robation's plan for residential treatment will likely help develop discipline and structure in [D.S.]'s life. Probation believes that residential treatment will be a venue for the minor to receive the intensive therapy that he so desperately needs."

On November 4, 2013, Dr. Thomas Rath issued a report regarding D.S.'s psychological evaluation. D.S.'s mother reported that D.S. was a "hyper" child. He discontinued his ADHD medication when it made him feel suicidal, and he had not been prescribed any psychotropic medication since then. D.S. had behavior and academic difficulties his entire time in school. He was suspended in kindergarten for trying to cut his teacher with scissors. In middle school, he was teased and was involved in a lot of

fights. He started smoking marijuana in fifth grade. His mother believed he smoked it every day when he could.

Dr. Rath administered several psychological tests. The test results showed D.S. suffered from "moderate anxiety, nervousness, worry, and fear." In Rath's opinion, D.S. was immature, lacked insight, felt distrust and estrangement toward others, and was sensitive to criticism. He had "strong feelings of anger and frustration and a tendency to react readily to those feelings." He was easily influenced by peers and relied on them for social approval. He suffered from low self-worth and low self-image. For D.S. to learn to handle his feelings of frustration and anger, Dr. Rath recommended a behavioral approach that would provide "positive reinforcement for prosocial and achievement oriented activities and conversely, limits and consequences for inappropriate behaviors. He requires consistent and predictable guidelines and routines in a structured milieu."[1]

The juvenile court held a contested dispositional hearing on December 16, 20 and 24, 2013. Defense counsel disputed the recommendation to send D.S. to placement, arguing instead for him to remain at home on probation to continue the services he was receiving. The district attorney pointed out that D.S. had been on probation for a year with all of the available local services, but he had still committed a new violent offense. Kevin Coleman, D.S.'s probation officer, testified that probation had provided D.S. with "every service imaginable" during the past year, including wraparound and anger management at Seneca, and individual therapy with two counselors. Other services included a YMCA membership, an outreach program, and a chance to play basketball at County Community School. D.S. completed the anger management program, but "his anger has not subsided." At school, he did not complete his work and had attendance problems. He did not get along with his stepfather and often disappeared from home.

---

[1] Noting that, at the dispositional hearing, the juvenile court requested a copy of the psychological evaluation for its file, D.S. suggests that the court may not have taken Dr. Rath's report into account in making its rulings. From the transcript, it appears that counsel provided a copy of the report to the court at the hearing. In any event, before making its findings and orders, the court stated that it had read and considered the report.

Coleman pointed out that D.S. ignored a stay-away order when he attacked the victim of a prior crime. Both victims still feared D.S.

In response to questions from the court about placement, Coleman testified that he was not a placement officer and he did not know where D.S. would be placed, but wherever that was, D.S. would receive similar services to those provided at Seneca. The court asked if the placement would address D.S.'s educational needs; Coleman responded that it would. The principal of County Community School reported to Coleman that D.S.'s angry outbursts were disruptive and required "extended periods of time" to resolve. These "fits of anger which can't be controlled" were another reason for a secure placement where all of his needs, "education, drugs, and anger management," would be addressed. Coleman said D.S. required more supervision than the department could provide. D.S. had exhausted local community services. Home probation was no longer viable because D.S.'s mother had done all she could do for him. Placement could last nine months to one year, depending on D.S.'s cooperation.

D.S.'s mother testified that she did not want him to be placed outside of the home, but acknowledged that he needed "just a little more structure." She and D.S. had attended family counseling together. He had done well over the summer when he was involved in a lot of activities and busy, but he had too much free time after school now. D.S.'s mother said his attendance and grades at school had been improving and things seemed to be "going pretty well" until the instant offense. She loved her son and did not want him sent away, "but I also don't want [anyone] else's child to be in harm's way either."

D.S. read a letter to the court expressing remorse, stating that he had learned to think and control his actions since being at juvenile hall, and asking to return home. He was willing to participate fully in services and to comply with all probation terms. He was doing better at school in juvenile hall. He did not believe he needed a drug or alcohol program. He did not believe he had an "extreme" anger problem. He did not think he needed the structure and supervision of juvenile hall or placement because he

had learned to control his anger. He stated, ". . . I don't think placement is the proper place to put a person now who only has two acts of violence on his record."

After taking the matter under submission, the court stated its "basic decision" for D.S. "to be placed in placement that provides him with mental health treatment," pro-social recreational activities, family counseling, group therapy, individual therapy, school, substance abuse treatment and monthly family visits. In addition to "positive structure," the court stated that the placement would also be "a place for you [D.S.] to build your self-awareness skills." The court stated that D.S. had "tremendous capacity. He's intelligent, he . . . can be successful in school, he can be a positive leader. [¶] The . . . vice high school principal at [D.S.'s previous school] said that you were a very intelligent and very thoughtful young man . . . who has been caught up in negative behavior. And so we're going to . . . finally get that structure and address that in a very positive way." The court made findings and orders continuing D.S. as a ward, placing him under the supervision of the probation officer for out-of-home placement, and stating D.S.'s new terms of probation.

D.S. filed a timely notice of appeal from the court's dispositional order.

III. DISCUSSION

The Placement Order

D.S. contends the juvenile court erred by placing him in a structured residential setting in Fresno, over 200 miles from his home in Novato, without considering the less restrictive alternatives of placement with relatives or in foster care, or placement in closer proximity to his home, as required by Welfare and Institutions Code section 727.1, subdivision (a).[2]

Preliminarily, we must clarify the scope of this appeal. We are informed by counsel in D.S.'s opening brief that he was placed at a group home in Fresno, but this information is not contained in the court's dispositional orders or anywhere in the record.

---

[2] All further unspecified statutory references are to the Welfare and Institutions Code.

Apparently, all consideration of appropriate placement alternatives by the department and the juvenile court took place after the dispositional hearing and after the court made its dispositional findings and orders, and is not before this court. Accordingly, we may consider only those arguments raised by D.S. that pertain to the orders from which he has appealed.

" 'We review a juvenile court's commitment decision for abuse of discretion, indulging all reasonable inferences to support its decision.' [Citation.] ' "[D]iscretion is abused whenever the court exceeds the bounds of all reason, all of the circumstances being considered." ' [Citations.] We will not disturb the juvenile court's findings when there is substantial evidence to support them. [Citation.] ' "In determining whether there was substantial evidence to support the commitment, we must examine the record presented at the disposition hearing in light of the purposes of the Juvenile Court Law." ' [Citation.]" (*In re Oscar A.* (2013) 217 Cal.App.4th 750, 755-756 (*Oscar A.*).) "A trial court abuses its discretion when the factual findings critical to its decision find no support in the evidence." (*People v. Cluff* (2001) 87 Cal.App.4th 991, 998.)

"The purpose of the juvenile court law is [¶] 'to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court and to preserve and strengthen the minor's family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public. If removal of a minor is determined by the juvenile court to be necessary, reunification of the minor with his or her family shall be a primary objective. If the minor is removed from his or her own family, it is the purpose of this chapter to secure for the minor custody, care, and discipline as nearly as possible equivalent to that which should have been given by his or her parents. . . .' (§ 202, subd. (a).) [¶] Minors under the juvenile court's jurisdiction must receive the care, treatment, and guidance consistent with their best interest and the best interest of the public. (§ 202, subd. (b).) Additionally, minors who have committed crimes must receive the care, treatment, and guidance that holds them accountable for their behavior, is appropriate for their circumstances, and conforms with the interest of public safety and protection.

(*Ibid*.) This guidance may include punishment that is consistent with the rehabilitative objectives. (*Ibid*.)" (*Oscar A*., *supra*, 217 Cal.App.4th at p. 756.)

Section 727.1, subdivision (a) provides: "When the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727, the decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive or most family like, and the most appropriate setting that is available and in close proximity to the parent's home, consistent with the selection of the environment best suited to meet the minor's special needs and best interests. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to Section 7950 of the Family Code."

D.S. does not quarrel with the court's decision to place him in the care and custody of the probation officer for out-of-home placement. Rather, he contends the court abused its discretion in failing to consider less restrictive alternatives of placement with a family member or a foster family, and whether any appropriate settings were in closer proximity to his home.[3] He relies on *In re Teofilio A*. (1989) 210 Cal.App.3d 571, 573, in which the juvenile court ordered the minor committed to the California Youth Authority (CYA). The appellate court found an abuse of discretion because the juvenile court did not examine less restrictive alternatives to a CYA commitment, specifically " ' " 'home placement under supervision, foster home placement, placement in a local treatment facility and, as a last resort, Youth Authority placement.' " ' " (*In re Teofilio A*., *supra*, 210 Cal.App.3d at pp. 578-579.) Although the juvenile court was under no statutory duty to try less restrictive placements, "there must be some evidence to support the judge's implied determination that he sub silentio considered and rejected reasonable alternative dispositions." (*Id*. at p. 577.) "The only evidence before the court was from the probation officer's report, and therefore, we must presume the judge predicated his

[3] We do not reach D.S.'s argument that the juvenile court erred in failing to consider placements closer to his home because, as we explained on page 7, *ante*, matters relating to the actual placement exceed the scope of this appeal.

disposition upon this report. However, the report fails to show the probation officer considered less restrictive alternatives or why such alternatives would be ineffective or inappropriate. This leaves the record barren on this crucial issue." (*Ibid*.)

Here, defense counsel advocated for D.S. to remain on probation at home. The department disagreed, and presented evidence that home placement had not been successful. D.S. had been living at home on probation for the past year and had received extensive services, including anger management and therapy. However, despite the services and despite a stay-away order, D.S. had still attacked the victim of a prior assault. The department also presented evidence that D.S. had urgent needs related to mental health, drug abuse and anger management, and needed more structure and supervision than the department could provide, such as with respect to school attendance and participation. According to Coleman, D.S. had exhausted the local community services. Although the department did not state explicitly that it had considered placement with a relative or a foster family, it is clear that the department determined implicitly that such placement would be inappropriate and/or ineffective. Based on this record, substantial evidence supports the juvenile court judge's implied determination that she considered and rejected placement at home or in the community with relatives or a foster family. (See *In re Teofilio A.*, *supra*, 210 Cal.App.3d at p. 577.)

Educational Findings

D.S. also contends the juvenile court erred in failing to make findings required by California Rules of Court, rule 5.651[4] regarding his educational needs.

Rule 5.651 implements federal law regarding the educational rights of children before the juvenile court, including the rights of children with disabilities to receive special educational programs. (Rule 5.651(a); see 20 U.S.C. § 1400 et seq.; see also Ed. Code, § 56000 et seq.) The version of rule 5.651(b)(2) in effect at the time the juvenile court made the ruling at issue in this appeal provided, in relevant part: "At the disposition hearing and at all subsequent hearings provided for in (a), the juvenile court

[4] All further unspecified rule references are to the California Rules of Court.

must address and determine the child's general and special education needs, identify a plan for meeting those needs, and provide a clear, written statement using . . . [form JV-535], specifying the person who holds the educational rights for the child. The court's findings and orders must address the following: [¶] (A) Whether the child's educational, physical, mental health, and developmental needs are being met; [¶] (B) Any services, assessments, or evaluations, including those for special education and related services, that the child may need; [¶] (C) Who is directed to take the necessary steps for the child to begin receiving any necessary assessments, evaluations, or services; [¶] (D) If the child's educational placement changed during the reporting period, whether [¶] (i) The child's educational records, including any evaluations of a child with a disability, were transferred to the new educational placement within two business days of the request for the child's enrollment in the new educational placement; and [¶] (ii) The child is enrolled in and attending school."[5]

D.S. relies on *In re Angela M*. (2003) 111 Cal.App.4th 1392 (*Angela M*.) in arguing that where a juvenile court is on notice that the minor may have special educational needs, the court is required to make findings. In *Angela M*., the minor

---

[5] Rule 5.651 was amended effective January 1, 2014. Rule 5.651(b)(2) now provides: "At the dispositional hearing and at all subsequent hearings described in (a)(2), the court must: [¶] (A) Consider and determine whether the child's or youth's educational, physical, mental health, and developmental needs, including any need for special education and related services, are being met; [¶] (B) Identify the educational rights holder on form JV-535; and [¶] (C) Direct the rights holder to take all appropriate steps to ensure that the child's or youth's educational and developmental needs are met. [¶] The court's findings and orders must address the following: [¶] (D) Whether the child's or youth's educational, physical, mental health, and developmental-services needs are being met; [¶] (E) What services, assessments, or evaluations, including those for developmental services or for special education and related services, the child or youth may need; [¶] (F) Who must take the necessary steps for the child or youth to receive any necessary assessments, evaluations, or services; [¶] (G) If the child's or youth's educational placement changed during the period under review, whether: [¶] (i) The child's or youth's educational records, including any evaluations of a child or youth with a disability, were transferred to the new educational placement within two business days of the request for the child's or youth's enrollment in the new educational placement; and [¶] (ii) The child or youth is enrolled in and attending school."

challenged the juvenile court's failure to make educational findings in committing her to the California Youth Authority. (*Id.* at p. 1394.) Based on evidence in the record, including diagnoses for bipolar disorder and ADHD and the psychologist's recommendation that she be evaluated for an IEP, the appellate court found that the juvenile court was on notice that the minor might have special educational needs. (*Id*. at pp. 1398-1399.) The court remanded "to permit the juvenile court to make proper findings, on a more fully developed record, regarding [the minor's] educational needs." (*Id*. at p. 1399.)

Here, the record is replete with evidence that D.S. had special education needs. The department's disposition report stated that he had an IEP but that it "has not been submitted to probation."[6] As noted in the disposition report and in Dr. Rath's report, D.S. had been diagnosed with ADHD at the age of five and had been prescribed medication for this condition for several years. His behavior in school had always been problematic; he was expelled from at least one former school and suspended multiple times. Prior to being detained at juvenile hall, his attendance in 10th grade had been "sporadic," and his grade point average was 1.85. Thus, the juvenile court was "clearly on notice that [D.S.] may have special educational needs." (See *Angela M*., *supra*, 111 Cal.App.4th at p. 1398.)

At the dispositional hearing, the juvenile court noted that D.S. had an IEP and acknowledged his 1.85 grade point average. In stating its dispositional ruling, the juvenile court made a number of references to education, including that D.S. would attend school at the placement and would go every day, that his "education passport"

---

[6] The record regarding an IEP is not entirely clear. We note that Dr. Rath's psychological evaluation report indicated that D.S. was tested in eighth grade but "apparently did not qualify for special education services" at that time. Dr. Rath recommended that D.S. "should receive an updated psycho-education assessment through the school district to assess for learning/reading difficulties. [D.S.] may need remedial assistance to help him improve his academic skills and performance. His low self-image, poor attitude toward school, and lack of realistic personal goals can be partly due to his low academic achievement."

would be prepared by his teacher at juvenile hall, and that his "school records from Marin will be forwarded to wherever . . . he's going to school." The juvenile court noted D.S.'s history of problems "at school," his low grades and attendance problem, and stated that a structured environment would help him succeed. Finally, the court advised D.S. that he should graduate and be "connected with the College of Marin . . . during your junior year and senior year;" that going to school every day was his "doorway to graduation, it's your doorway to college. And you have the capacity, you just need to have the structure."

We disagree with the Attorney General that these comments by the juvenile court established that it fully considered and determined D.S.'s present and future educational needs in compliance with rule 5.651(b)(2). The court's comments were directed to D.S.'s general education needs, not his special education needs. The court's passing acknowledgement that D.S. had an IEP does not satisfy the former rule's requirements, inter alia, that the court "*must* address and determine the child's general and *special education needs*" and identify a plan for meeting those needs, or that the court's findings and orders "*must* address" whether the child's educational needs are being met. (Former rule 5.651(b)(2), emphasis added.) Nor does it meet the requirements of present rule 5.651, which similarly provides that the court "*must*" consider and determine whether the needs of the child for "special education and related services" are being met, and that the court's findings and orders "*must* address" whether the child's educational needs are being met. (Rule 5.651(b)(2), emphasis added.) The word "must" makes clear that the court's duty to make an express inquiry into and determination concerning the child's education needs, both general education and special education, is mandatory, not discretionary. (See, e.g., *Jones v. Catholic Healthcare West* (2007) 147 Cal.App.4th 300, 307 ["Courts routinely construe the word 'may' as permissive and words like 'shall' or 'must' as mandatory."].)

On this record, it was particularly important for the juvenile court to pay special attention to D.S.'s education needs. His education difficulties spanned his entire school career and included serious behavior, academic performance and attendance issues. Although he was diagnosed with ADHD at an early age and apparently had an IEP, there

is no indication in the disposition order that the department or the court identified his special education needs or planned for them. Accordingly, we will remand to the juvenile court to fully comply with the regulatory mandate of rule 5.651(b)(2). (See *Angela M.*, *supra*, 111 Cal.App.4th at p. 1399.)

Consent of Counsel to the Minor's Admissions

Finally, D.S. contends the juvenile court abused its discretion when it accepted D.S.'s admissions to the amended petition without making a finding that defense counsel consented to the admissions.

Section 657, subdivision (b) provides: "At the detention hearing, or any time thereafter, a minor who is alleged to come within the provisions of Section 601 or 602, may, with the consent of counsel, admit in court the allegations of the petition and waive the jurisdictional hearing." Rule 5.778(d) provides: "Counsel for the child must consent to the admission, which must be made by the child personally."

At the outset of the change of plea hearing on November 19, 2013, after counsel made their appearances, the court specifically asked D.S.'s counsel if he "need[ed] some time with your client?" D.S.'s counsel stated, "If we could have a minute." The court replied, "Take your time." The reporter's transcript notes: "(Whereupon, a discussion was had between the minor and his counsel.)" D.S.'s counsel then stated that D.S. was prepared to admit the petition as amended to state count 1 as a misdemeanor. The motion to amend was unopposed and granted by the court; the petition was amended. The juvenile court then advised D.S. of his constitutional trial rights. D.S. waived those rights. The district attorney advised D.S. of the consequences of admitting the allegations; D.S. acknowledged he understood. The court then engaged counsel and D.S. in the following colloquy:

"THE COURT: . . . So knowing all of that, . . . [d]o you admit the allegation in Count 1?

"THE MINOR: Yes.

"THE COURT: Do you admit the allegation in Count 2?

"THE MINOR: Yes.

"THE COURT: Is counsel stipulating to a factual basis?

"[Defense Counsel]: Yes, your Honor.

"[District Attorney]: Yes, your Honor.

"THE COURT: I'm going to find that [D.S.] has knowingly, intelligently, and voluntarily waived his constitutional rights and that there is a factual basis for each admission. I accept them and find the allegations to be sustained as modified today, both misdemeanors."

D.S. cites *In re Alonzo J.* (2014) 58 Cal.4th 924 (*Alonzo J.*) as supporting his argument that the juvenile court here erred in accepting D.S.'s admissions without obtaining the consent of counsel. *Alonzo J.* is distinguishable and does not assist D.S. The issue in *Alonzo J.* was whether consent of counsel was required for a minor to plead no contest, as distinguished from admitting the allegations of a petition. (*Id.* at pp. 928-930.) The minor in *Alonzo J.* wished to plead no contest to a felony allegation; his counsel would not give consent. The juvenile court found consent was required and held a contested jurisdictional hearing; the Court of Appeal reversed, finding the minor had the right to plead no contest without consent of counsel. Reversing the appellate court, the Supreme Court held that rule 5.778, requiring counsel's consent for admissions, also applied to no contest pleas in juvenile delinquency proceedings. (*Id.* at p. 939.) In so holding, the court noted, "Not before us are questions concerning how attorneys should exercise the authority to give or withhold that consent, and we express no view on those separate issues of attorney ethics." (*Ibid.*)

The parties in the instant case disagree on the import or effect of this final quoted sentence in *Alonzo J.*, but the matter is neither here nor there. Based on this record, there is no question that D.S.'s counsel consented to his admissions. He conferred with D.S. at the outset of the hearing, advised the court that D.S. wished to enter the admissions, and stipulated to a factual basis for those admissions. The juvenile court did not err in failing to require counsel's express consent, nor did it abuse its discretion in accepting those admissions and sustaining the amended allegations of the petition.

IV. DISPOSITION

The dispositional orders of the juvenile court are affirmed. However, the matter is remanded with directions to make the required findings and orders under rule 5.651(b)(2) as to D.S.'s educational needs.

Miller, J.

We concur:

Richman, Acting P.J.

Stewart, J.