

NOT TO BE PUBLISHED IN OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 C.M., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

C.M.,

Defendant and Appellant.

A141130

(Contra Costa County
Super. Ct. No. J13-00889)

C.M. appeals from jurisdictional and dispositional orders in this proceeding filed under Welfare and Institutions Code section 602. His sole contention is that the juvenile court erred by ordering him to spend 30 days in county jail as a condition of probation, and he requests that we either remand the case to the juvenile court for a new disposition order or strike the commitment to county jail from the order.

Because the jail term has already been served and the juvenile court no longer has jurisdiction, we will dismiss the appeal as moot.

I. FACTS AND PROCEDURAL HISTORY

In April 2013, the San Joaquin County District Attorney filed a petition under Welfare and Institutions Code section 602, alleging that three days before his 18th birthday, C.M. received stolen property (count one) and conspired to possess stolen property (count two). (Pen. Code, §§ 496, subd. (a), 182, subd. (a)(1).) C.M. entered a

negotiated admission to count one, and the court dismissed count two on the prosecutor's motion. The matter was transferred to Contra Costa County for disposition.

A. Initial Contra Costa County Proceedings

The Contra Costa County Juvenile Court accepted transfer and, in September 2013, concluded C.M. was ineligible for deferred entry of judgment based on his prior wardship.¹ At C.M.'s request, the court transferred the matter back to San Joaquin County for a possible withdrawal of his plea.

B. San Joaquin County's Amended Petition and C.M.'s Plea

On November 20, 2013, the San Joaquin County prosecutor filed an amended petition alleging that C.M., aged 18, received stolen property (Pen. Code, § 496, subd. (a)) and drove while unlicensed (Veh. Code, § 12500, subd. (a)).

The next day, the court granted C.M.'s motion to withdraw his admission to the original petition and C.M. entered a negotiated admission to count one of the amended petition (receiving stolen property) as a misdemeanor. The court dismissed the other counts on the prosecutor's motion and transferred the matter to Contra Costa County for disposition.

C. Contra Costa County Disposition Hearing and Order

In its report for the disposition hearing, the probation department advised that C.M. was at moderate risk for reoffending and "would benefit from the Selective Intervention [] supervision strategy." Since C.M. had turned 19 years old, "[d]eciding on an appropriate and potentially effective rehabilitative course of action for [C.M.]

¹ In prior proceedings, the juvenile court sustained an allegation that C.M. committed felony assault (Pen. Code, § 245), the court declared wardship and placed C.M. on probation, and wardship terminated on June 24, 2009. Another petition was filed in December 2009, C.M. admitted carrying a concealed weapon, the court declared wardship, and C.M. was placed in his mother's home. Another delinquency petition was filed in December 2010, C.M. admitted that he received stolen property, and the court continued his probation. A petition filed in May 2011 was sustained as to the allegation that he engaged in gang activity (Pen. Code, § 186.22, subd. (a)), C.M. was committed to Log Cabin Ranch School, and the court terminated wardship on April 30, 2013, seven days after the initial petition was filed in this matter.

within the purview of the juvenile court is problematic at present,” because he was “either ineligible or unsuitable for most of the corrective services employed in the juvenile justice system.” The probation officer believed this stemmed “from the fact that the present matter occurred approximately 13 months ago, but has not been adjudicated in a timely, efficient manner, and thus corrective services that probation may have recommended . . . are no longer viable options.” The probation officer advised that C.M. had not been arrested for criminal activity since he was detained for the charged offenses, opined that he still might benefit from “corrective devices available to the juvenile court,” and recommended that C.M. be declared a ward of the court and placed on probation in his mother’s home for one year.

At the disposition hearing on February 14, 2014, C.M.’s attorney noted that C.M. had not been arrested recently and claimed he was “very close to obtaining his high school diploma, wants to go to college, and [was] working part time on an as-needed basis.” The prosecutor countered that C.M. had an extensive criminal history (including assaults and weapon charges, along with C.M.’s admission that he was a gang member) and neither claimed responsibility nor exhibited remorse for “this particular crime.” The prosecutor argued that if the court were to accept the probation officer’s recommendation of probation, it would be rewarding C.M. for being 19 years old despite his serious criminal history; the prosecutor recommended commitment to the county jail for 30 days.²

The juvenile court declared C.M. a ward of the court, placed him on probation, and ordered him to serve 30 days in county jail, without “good time” credits, so he would “understand there are consequences for [his] behavior” and “realize that’s not a place that [he wants] to be.” He was to surrender to jail authorities on February 17, 2014, and his wardship was to terminate on February 14, 2015.

This appeal followed.

² The prosecutor argued: “[I]f we ask for this Court to sentence him to jail for a period of time, we would be asking that for punitive purposes. And the juvenile justice system is designed to rehabilitate. *But he is 19 years of age.*” (Italics added.)

II. DISCUSSION

C.M. contends the juvenile court erred in committing him to jail because the term was inconsistent with the rehabilitative goals of the juvenile court and not authorized by the law. He urges that we remand for a new disposition order or strike the jail commitment from the order. Respondent contends the matter is moot.

An appeal must ordinarily be dismissed as moot when it is no longer possible for this court to grant the appellant effectual relief. (*Paul v. Milk Depots, Inc.* (1964) 62 Cal.2d 129, 132.) Thus, if the juvenile court no longer has jurisdiction over the appellant, we are ordinarily compelled to dismiss the appeal. (See, e.g., *In re Michelle M.* (1992) 8 Cal.App.4th 326, 330 [appellate court had no jurisdiction over appeal once juvenile court terminated its jurisdiction in a proceeding under Welf. & Inst. Code, § 300]; *In re Jody R.* (1990) 218 Cal.App.3d 1615, 1621 [stating general rule].)

Here, C.M. was ordered to begin serving his 30-day jail term on February 17, 2014. Because the court did not allow “good time” credits, the 30-day term expired in March 2014. Moreover, C.M.’s wardship was terminated in June 2014.³ Therefore, even if we addressed the merits of C.M.’s appeal and determined that the juvenile court lacked jurisdiction to commit C.M. to county jail, an order of remand to hold a new dispositional hearing would have no effect because the jurisdiction of the juvenile court has terminated. Since we cannot grant effectual relief, the appeal should be dismissed.

C.M. urges that we should nonetheless exercise our discretion to decide the appeal because the juvenile court’s improper commitment of a minor to county jail is a matter of continuing public interest. (See *In re Ramon M.* (2009) 178 Cal.App.4th 665, 671; *In re Jody R., supra*, 218 Cal.App.3d at p. 1622.) Specifically, C.M. argues,

³ Respondent filed a request for judicial notice of the juvenile court’s order of June 13, 2014, which stated that C.M.’s probation and wardship were terminated on that date. Having deferred our ruling on the request, we now grant it. There is no dispute that wardship has terminated.

the appeal addresses the serious issue of a juvenile court being informed of its statutory restrictions, and then choosing to order an unauthorized sentence regardless.

C.M. points out that the prosecutor in this case asserted at the dispositional hearing that asking for a commitment to county jail would be for “punitive purposes,” and although the juvenile justice system is designed to rehabilitate, C.M. is “19 years of age.” From this statement, C.M. argues, the court was directly informed that C.M. was a 19-year-old ward, and the court is presumed to know that a juvenile ward may not be ordered to county jail. Nonetheless, the court ordered C.M. to serve 30 days in county jail so he would “understand there are consequences for [his] behavior” and “realize that’s not a place that [he wants] to be.” C.M. speculates that the court committed him directly to county jail “presumably with the understanding that any appeal of the order would come too late to make an impact.”

C.M.’s arguments are unpersuasive. This court has discretion to decide a moot case where the “ ‘action involves a matter of continuing public interest *and* the issue is likely to recur.’ ” (*In re Jody R.*, *supra*, 218 Cal.App.3d at p. 1622 (italics added); see *In re Ramon M.*, *supra*, 178 Cal.App.4th at p. 671.) Here, C.M. has alleged an error occurring only in his particular case, and there is no likelihood that this issue will recur in this proceeding. Furthermore, as C.M. himself insists, this is not a situation where the law is in doubt or there is a conflict in the law that needs to be resolved, such that our deciding the issue would provide guidance in other cases. Nor does C.M.’s unsupported attack on the integrity of the juvenile court’s motives in this case give us cause to stray from the usual rule of dismissing moot appeals.

C.M. next contends that, if we strike the commitment to county jail, it would remove the stigma of a county jail commitment on his record. Acknowledging that he has a history of perpetrating criminal offenses as a juvenile, C.M. urges that he is entitled to a “fresh start” as an adult now that his wardship has terminated.

This case is unlike the case on which C.M. relies for his argument, however. In *In re Dana J.* (1972) 26 Cal.App.3d 768, the challenge on appeal was to the finding that the juvenile had *committed* a crime. (*Id.* at p. 771 [in light of cases stating a

juvenile’s right of appeal “affords the juvenile the opportunity to rid himself of ‘the stigma of criminality’ [citation] and to ‘clear his name’ *of a criminal charge* [citation],” the juvenile’s appeal from a finding that she had committed a crime was not moot, even though jurisdiction in the juvenile court had terminated, because a successful appeal would remove the “stigma of criminality”].) Here, by contrast, C.M.’s challenge is not to the finding that he committed a crime, but to the *punishment* he received for perpetrating an offense he does not contest. (See *In re Richard D.* (1972) 23 Cal.App.3d 592, 594-595 & fn. 5 [termination of wardship did not render moot an appeal attacking a finding of criminality, rather than the result on the minor’s liberty resulting from a supervision order].)

In any event, striking the 30-day jail commitment in this case would not remove the taint of criminality or delinquency established by C.M.’s lengthy criminal history. Even if we were to strike the part of the most recent disposition requiring him to serve 30 days in jail, the findings that C.M. perpetrated criminal offenses in this and other cases would remain.⁴

III. DISPOSITION

The appeal is dismissed.

⁴ Welfare and Institutions Code section 781 provides for the sealing and destruction of records pertaining to offenses committed by a juvenile, under conditions specified in the statute. C.M. does not assert that this means of obtaining a fresh start is unavailable to him, or that the sealing of those records would fail to remove the taint of delinquency unless we strike the county jail commitment.

NEEDHAM, J.

We concur.

JONES, P. J.

SIMONS, J.