

NOT TO BE PUBLISHED IN OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 CARLO T.,
A Person coming under the Juvenile Court
Law.

THE PEOPLE,
Plaintiff and Respondent,

v.

CARLO T.,
Defendant and Appellant.

No. A147756

(Contra Costa County
Super. Ct. No. J15-00981)

Minor Carlo T., thirteen years old at the time of the Welfare and Institutions Code section 602 proceedings below, appeals from the juvenile court's disposition ordering him to an out-of-home placement after he admitted to assaulting his mother and shooting a pellet gun at children in a city park. His court-appointed counsel filed a brief raising no legal issues and requesting this court independently review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Minor was informed of his right to file a supplemental brief and did not do so. Upon our independent review of the record pursuant to *Wende*, we conclude there are no arguable appellate issues for our review and affirm the juvenile court's order.

BACKGROUND

I.

The Petition

In December 2015, the Contra Costa County District Attorney filed a juvenile wardship petition alleging minor committed felony assault with force likely to cause great bodily injury (count one); felony dissuading a witness from reporting a crime (count two); misdemeanor injuring or tapping a phone line (count three); misdemeanor vandalism (count four); felony possession of a weapon on school grounds (count five); misdemeanor assault on school or park property (count six); misdemeanor carrying a dirk or dagger (count seven); and misdemeanor assault on school or park property (count eight). Counts one through four were based on an altercation minor had with his mother in December 2015. Counts five through eight were based on an incident that occurred in May 2015.

II.

Jurisdiction

In January 2016, the prosecution moved to amend count one to allege a misdemeanor rather than a felony assault with force likely to cause great bodily injury. Pursuant to a negotiated disposition, minor admitted allegations that he committed the misdemeanors alleged in counts one, three, six and seven. The court found minor knowingly, willingly and voluntarily waived his jurisdiction hearing rights, freely and voluntarily made his admissions with an understanding of their nature and the consequences, and understood the wrongfulness of his conduct, and also found a factual basis for minor's admissions. The court accepted minor's admissions, sustained the allegations in counts one, three, six and seven, dismissed the remaining counts and asserted jurisdiction. Minor also freely and knowingly waived his right to appeal the juvenile court's jurisdictional findings.

III.

The Probation Department Report

In preparation for a contested disposition hearing, the probation department prepared a report to the juvenile court regarding minor. It reported that on May 4, 2015, an officer responded to a report of a minor running around pointing a pistol at people in a city park. The officer observed minor annoying some children playing soccer by firing pellets at them from what appeared to be a semi-automatic pistol. Minor told the officer he was having fun with his friends and did not know why he shot at them. Children said minor had been shooting at them for a couple of days. One said minor brought knives and the pellet gun to school; minor admitted doing so and to shooting people at school with pellets, and said he was sorry. The officer noted that the orange tip of minor's gun had been colored black, and found a knife and a plastic replica magazine with plastic pellets in minor's backpack. The officer took minor home and spoke to his mother, who said she did not know minor had a pellet gun or knife, or brought them to school. She said minor was out of control at home and refused to obey her or his teachers.

The department reported minor subsequently did not take responsibility for his actions, admit taking the gun or knife to school, or acknowledge the danger of blacking out the gun's orange tip and shooting people. The department noted he could have "easily been wounded or killed by responding law enforcement."

Another incident occurred on December 16, 2015. Officers went to the home of minor and his mother in response to a report that he had assaulted and poured hot water on her. Minor was outside and said he had an argument with mother and was going to a friend's house. Mother was at a neighbor's home, appeared visibly upset, and was shaking and crying. Her clothing was wet, her shirt had a dried blood stain from what she said was a bloody nose, and her hand and left shoulder were abraded. Mother said when she told minor to stop playing video games, he punched her in the head several times, poured hot water on her, threw things, broke his bedroom door and took mother's phone from her when she said she was calling the police. When she locked herself in the bathroom, he kicked in the door; she climbed out the window and called police from a

neighbor's home. Minor stole money from her, refused to attend school or obey her, and frequently became aggressive toward her. She did not feel safe with him and wanted to press charges.

Minor told police he argued with mother about playing video games, punched her four times until he was too sore to continue, took away her phone so she could not call the police, and did not know how the doors were broken. He did not appear to care about injuring her, attempted to blame her, and did not take responsibility for his actions. He was arrested and placed in juvenile hall.

In January 2016, minor told the probation department his mother kicked in his bedroom door in an attempt to take away his video game system and he tried to restrain her. She attacked him, and he packed his bags to leave. During their fight, a cup of tea she had left in his room accidentally spilled on her and he unintentionally struck her three or four times in the head. They were both at fault, he said, and, if faced with it again, he would give his mother the video game system and "let her cool down." He said he intended to give his mother an apology letter, the incident had affected him greatly and he was remorseful.

Minor also told the department that he was in seventh grade, was not a special education student and that his current grades were five A's and one B. His school records showed all F's, 57 days of absences, and three behavioral entries. He had been a special education student from 2008 to early 2015, when his mother revoked consent because he had stopped attending school.

Minor said he did not have any family history of substance abuse, but mother said his biological father, with whom minor had no ongoing relationship, was addicted to a variety of substances. Minor said he had never tried alcohol, marijuana or any other substance, but also reported to a probation officer that he had tried marijuana and did not like it.

Mother said minor was diagnosed with attention-deficit/hyperactivity and impulse control disorders when he was 11 years old and she thought he had a chemical imbalance. Mother and minor also acknowledged that he had twice in elementary school been

detained pursuant to Welfare and Institutions Code section 5150 for psychological evaluation, for jumping on a teacher's vehicle and for running away from teachers and causing a disruption. He had been on medication for a short time but stopped taking it because, mother said, it heightened his symptoms. He had attended three family counseling sessions with her but then stopped.

The department also reported that mother suffered from lupus disease, which required medication and caused her significant physical difficulties, but, she said, she had never missed her son's sports games or practices, or caused him to miss school because of her disease. Minor said mother's lupus affected him greatly and that he worried about her. He also said they had a good relationship.

Mother told the department minor was addicted to video games and that she removed minor's video game system since the incident. She felt partially at fault because she did not follow through with getting him on medication. They were close and had a good relationship. She had household rules, which he did and did not follow, and she took things away from him when he did not. He had a small group of friends, and she approved of them. She wanted to get him home, into counseling and attending school regularly.

The department reported that minor's family had been the subject of 19 referrals with the county, 18 of which were closed. Previously, in January 2015, minor was cited for battery of his mother, when he reportedly hit her in the face with cardboard packaging and said, " 'Fuck you, you're a stupid bitch.' " The matter was closed in August 2015. While in juvenile hall for the instant incident, minor had had four negative write-ups. Mother denied having any recent criminal convictions, but a report indicated she suffered a conviction in 2015 for insurance fraud, which mother later told the department she had forgotten to mention.

The department concluded that "[a]side from the instant offense the minor is out of control and does not obey his mother." It was concerned that "without appropriate intervention, [his] violent responses will continue to escalate and become more frequent" and that, while medication might help him, mother had previously stopped it. It

recommended that he be placed in an out-of-home placement approved by the court and undergo counseling, and that mother also be ordered to counseling.

IV.

Disposition

At the February 2016 disposition hearing, minor, mother, minor's sister and minor's counsel addressed the court. Minor apologized to his mother, and all four thought it would be best if he were given the chance to be placed in the home under the probation department's supervision. The prosecutor disagreed and supported the department's recommendation that he be placed outside the home because "this family needs issues addressed as a family and the minor needs issues addressed," minor had mental health issues, mother had not followed through on his medications, she could not control his behavior, minor was an "extreme danger out in the community" and minor had continued to act out in juvenile hall.

The court adopted the department's recommendation and ordered minor to an out-of-home placement. It ordered destruction of confiscated items pertaining to the petition, ordered that minor participate in a mental health assessment and take all prescribed medications as directed by a prescribing physician, and ordered the probation department to consider certain placements and, if minor was placed elsewhere, not to transport minor prior to a hearing before the court. The court pointed to minor's pellet gun shooting and his blackening the gun's tip, "which . . . shows a level of calculation that is troubling for someone [minor's] age." The court found minor had "some pretty profound mental health issues that need to be dealt with," had "brutally assaulted his mother," had "some serious issues" that were worsened by "whatever dynamic exists in the home" and had serious issues at school. The court also was concerned about mother's revocation of his special education services and his stopping taking medication without consulting a doctor. It had "grave concerns" for minor's well-being and thought an out-of-home placement in a facility with therapeutic and mental health services would help minor become "successful." It set minor's remaining maximum custodial time at one year, 10 months and four days.

Minor filed a timely notice of appeal from the court's order.

DISCUSSION

Defendant's notice of appeal does not indicate that he is challenging any aspect of the court's jurisdiction order and he freely and knowingly waived his right to appeal from it. Even if he were appealing from it, the scope of reviewable issues on appeal after the sustaining of a petition on the basis of admissions is restricted to matters based on constitutional, jurisdictional, or other grounds going to the legality of the proceedings leading to the admissions; guilt or innocence are not included. (See *People v. DeVaughn* (1977) 18 Cal.3d 889, 895–896.) Minor did not enter his admissions until after he was fully advised of his rights, and waived them after being told of the possible consequences of doing so. We see no arguable appellate issues regarding the court's assertion of jurisdiction.

As for the juvenile court's disposition order, the court has broad discretion to place a delinquent ward in an out-of-home placement under the care, custody, and control of the probation officer with further orders as needed for the care and rehabilitation of the minor. (See, e.g., Welf. & Inst. Code, §§ 726–731; *In re Greg F.* (2012) 55 Cal.4th 393, 411.) In determining the proper disposition for a minor, "the court shall consider, in addition to other relevant and material evidence, (1) the age of the minor, (2) the circumstances and gravity of the offense committed by the minor, and (3) the minor's previous delinquent history." (Welf. & Inst. Code, § 725.5; *In re Gary B.* (1998) 61 Cal.App.4th 844, 849.)

We review the court's disposition order for abuse of discretion, indulging all reasonable inferences to support the court's decision and not disturbing its findings if supported by substantial evidence. (*In re Robert H.* (2002) 96 Cal.App.4th 1317, 1330.)

The court's disposition order was based on findings amply supported by substantial evidence and good reasons. Based on our own independent review, we have found no arguable appellate issues.

DISPOSITION

We conclude based on our independent review pursuant to *Wende* and our review that there are no arguable appellate issues for our review. The order appealed from is affirmed.

STEWART, J.

We concur.

KLINE, P.J.

MILLER, J.