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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

In re Cory V., a Person Coming Under the Juvenile Court Law.	
THE PEOPLE, Plaintiff and Respondent, v. Cory V., Defendant and Appellant.	A148636 (Contra Costa County Super. Ct. No. J14-01159)

Cory V. was committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice (DJJ), following a plea agreement. He pleaded no contest to felony assault by means of force likely to cause great bodily injury (Pen. Code, § 245, subd. (a)(4)),[1] with an enhancement for personal use of a deadly or dangerous weapon (§ 12022, subd. (b)(1)), and felony false imprisonment by violence (§ 237, subd. (a)).

Assigned counsel submitted a *Wende*[2] brief, certifying that counsel was unable to identify any issues for appellate review. Counsel also submitted a declaration confirming Cory was advised of his right to personally file a supplemental brief raising any points which he wishes to call to the court's attention. No supplemental brief has been

[1] Undesignated statutory references are to the Penal Code.

[2] *People v. Wende* (1979) 25 Cal.3d 436.

submitted. As required, we have independently reviewed the record. (*People v. Kelly* (2006) 40 Cal.4th 106, 109–110.) We find no arguable issues and therefore affirm.

I. BACKGROUND[3]

On January 29,[4] Cory's ex-girlfriend agreed to meet with him near her home to talk. He became angry when she received a call on her cellphone from another boy. When she tried to leave, Cory pulled her into his car, took her cellphone, and punched her several times in the face. He ordered her to remove her clothes and jewelry, put them in the trunk of his car, and told her to walk home naked. Cory then drove her to his house in Antioch. Upon arrival, he produced a gun and demanded she go into the house. He continued to punch her in the face and head, causing her to feel dizzy and nauseous. He ordered her to remain in his room while he left. She tried to find a phone, but she could not walk because of dizziness and nausea.

When Cory returned, he questioned the victim as to whether she had engaged in sex with one of his friends. He continued to strike her with his fists, and at one point put the gun to her head and in her mouth as he accused her of cheating on him. He later took her into the shower where she vomited several times. He insisted she have sex with him before she could leave. After holding the victim against her will for over five hours, he eventually gave her a T-shirt and jacket and allowed her to leave the house. She left and called a family member for help. When later seen at a hospital, she was told she had a concussion. The 16-year-old victim was described as "petite in stature" and weighing about 85 pounds.

On February 5, Cory was charged in a supplemental wardship petition with six felony counts: kidnapping (§ 207, subd. (a); count 1); assault by means of force likely to produce great bodily injury (§ 245, subd. (a)(4); count 2); battery causing serious bodily injury (§ 243, subd. (d); count 3); assault with a firearm (§ 245, subd. (a)(2); count 4); inflicting corporal injury on a party in a dating relationship (§ 273.5, subd. (a); count 5);

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[3] Facts concerning the charged offenses are taken from the probation report, which was received into evidence at disposition.

[4] All dates cited herein occurred in 2016.

and false imprisonment by violence (§§ 236, 237, subd. (a); count 6). The petition gave notice that a prior second degree residential burglary finding would be used to aggregate his maximum time of confinement in the event the new allegations were sustained.

Cory, assisted by counsel, entered pleas of no contest to counts 2 and 6 (§§ 245, subd. (a)(4), 236, 237, subd. (a)). During voir dire by the court, Cory expressed uncertainty as to the plea's potential consequences. The court, in each instance, recessed proceedings to allow Cory to consult with his counsel and parents. The court stated it did not want Cory to "feel that he's being strong-armed. I want him to do this freely and voluntarily." After consultation, Cory said he would accept the plea offer, understood his rights, and was prepared to waive those rights. The court found a factual basis for the admission and found it was freely and voluntarily made.

As part of the plea agreement, the petition was amended to include an allegation that Cory personally used a deadly or dangerous weapon (§ 12022, subd. (b)(1)), to which Cory also entered a no contest plea. All other charges, and a pending probation violation petition, were dismissed. It was agreed Cory's maximum period of confinement would be five years. He was advised that his plea to count 2 was to an offense enumerated under Welfare and Institutions Code section 707, subdivision (b).[5]

A contested dispositional hearing was held on June 7. The probation department recommended commitment to DJJ. Defense counsel submitted letters from Cory, as well as family and community members, on his behalf.[6] The court heard testimony from Cory's friend, family members, and probation officer. Cory also addressed the court. Cory's counsel asked for placement in the local juvenile hall's Youth Offender Treatment Program. The probation officer explained that Cory had been screened for all available local programs and placements, and the Youth Offender Treatment Program was an

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[5] An adjudicated offense under Welfare and Institutions Code section 707, subdivision (b), qualifies as an adult "strike" under section 667, subdivision (d)(3). (See *People v. Garcia* (1999) 21 Cal.4th 1, 6.)

[6] Cory dismissed his privately retained counsel following entry of his plea. At the time of disposition, he was represented by the public defender.

inappropriate placement given the gravity of Cory's offenses—in particular, false imprisonment with violence and firearm use. At the time of disposition, DJJ was "the only place that accepted Cory." The court noted Cory committed a "horrendous act," for which he not taken full responsibility. The court stated all local less restrictive programs and forms of custody had been considered, and the court was fully satisfied those less restrictive alternatives were inappropriate dispositions. It found Cory had been on probation and failed to reform, and his mental and physical conditions were such that it was probable he would benefit from the reformatory educational discipline or other treatment provided by DJJ. The maximum term of confinement was set at five years and eight months, with a finding that Cory would be eligible for parole upon completing a DJJ two-year program.[7] The court found the offense was a Welfare and Institutions Code section 707, subdivision (b) offense, determined accrued custody credits of 282 days, and imposed a $500 restitution fine.

A timely notice of appeal was filed on June 15.

II. DISCUSSION

Cory appeals from the commitment order, but he does not specifically indicate if both jurisdictional and dispositional findings are challenged. He appears to at least obliquely challenge the facts underlying his offenses and the circumstances of his plea.[8] As to the facts underlying the jurisdictional finding, Cory's plea of no contest is analogous to an adult admission of all matters essential to a criminal conviction and "constitutes an assent to all facts essential to a finding that the minor is a person described in [Welfare and Institutions Code] section 602." (*In re John B.* (1989) 215 Cal.App.3d 477, 484.) No arguable issue is raised as to the validity of his

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[7] Consistent with the provisions of the plea agreement, the terms of commitment for counts 2 and 6 were designated as concurrent. Cory was subject to an additional eight-month commitment term for his prior burglary offense.

[8] At the disposition hearing, Cory told the court he admitted things "that I really didn't do." In a footnote in his briefing here, Cory "disputes the accuracy of the probation department's description of what actually transpired between he [*sic*] and his ex-girlfriend."

admissions. The court's voir dire at the time of the plea was thorough as to both waiver of rights and consequences of the plea, and when Cory had questions the court gave him time to consult with his counsel and parents. The court found a factual basis for the admission, and it found that admission to have been freely and voluntarily made. The record supports the findings. Cory made no motion to withdraw his admissions.

We find no arguable issues as to the disposition. "When determining the appropriate disposition in a delinquency proceeding, the juvenile courts are required to consider '(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.' [Citations.] Additionally, 'there must be evidence in the record demonstrating both a probable benefit to the minor by a [DJJ] commitment and the inappropriateness or ineffectiveness of less restrictive alternatives.' [Citation.] 'A juvenile court's commitment order may be reversed on appeal only upon a showing the court abused its discretion.' " (*In re Jonathan T.* (2008) 166 Cal.App.4th 474, 484–485.) The juvenile court considered all relevant factors and made all necessary findings based on evidence in the record. No abuse of discretion is shown.

III. DISPOSITION

The jurisdictional and dispositional orders are affirmed.

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BRUINIERS, J.

WE CONCUR:

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SIMONS, Acting P. J.

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NEEDHAM, J.