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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

In re RAYMOND A., a Person Coming Under the
Juvenile Court Law.

C072235

THE PEOPLE,

(Super. Ct. No. 68042)

Plaintiff and Respondent,

v.

RAYMOND A.,

Defendant and Appellant.

By the time he was 16, appellant Raymond A. had admitted to felony possession of a firearm, resisting a police officer, battery, possession of ammunition, and two violations of probation including smoking marijuana in the juvenile camp bathroom and using cocaine. He had earned 37 permanent holdover days for his noncompliant behavior at camp and additional dead days for the time he lost while serving those days at juvenile hall following his admissions to two violations of parole. The juvenile court found true

his third violation of parole allegation for failing to obey the reasonable directives of the probation office and camp staff.

On appeal, Raymond challenges the court's disposition committing him to the custody of the probation officer for general placement in a suitable setting. He argues the case plan and educational findings were insufficient to support the disposition. The central question raised on appeal is whether the few superficial gaps in the case plan can be filled in with information considered by the court in the record before it. We conclude the case plan, augmented by the record, provided a comprehensive assessment of the minor and satisfied the goals encompassed by section 706.5 et seq. of the Welfare and Institutions Code. We therefore reject the minor's challenge to the dispositional order, find no abuse of discretion, and affirm.

I

The only facts relevant to the issues Raymond raises on appeal are those that informed the judge's dispositional ruling. Raymond alleges that the case plan was fatally deficient and denied him due process of law. Thus, we must examine the contents of the case plan, the law mandating a case plan, and the record upon which the judge relied in committing him to the custody of the probation officer for general placement in a suitable setting.

We review the juvenile court's disposition order for an abuse of discretion. (*In re Lorenza M.* (1989) 212 Cal.App.3d 49, 53.) “ ‘An appellate court will not lightly substitute its decision for that rendered by the juvenile court. We must indulge all reasonable inferences to support the decision of the juvenile court and will not disturb its findings when there is substantial evidence to support them. [Citations.] 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. [Citations.]’ ” (*Ibid.*)

Before a dispositional order is made for a minor, the probation department must prepare and the court must consider a social study of the minor, including a case plan containing details of the minor's history, needs, and goals. (Welf. & Inst. Code, §§ 706, 706.5, subd. (a), 706.6.) “[R]elevant policies of juvenile court law require that the court consider ‘the broadest range of information’ in determining how best to rehabilitate a minor and afford him adequate care.” (*In re Robert H.* (2002) 96 Cal.App.4th 1317, 1329.)

Raymond contends that the case plan was missing the following essential ingredients: the reasons why the court placed him in a group home; information on other relatives who might provide a home for him, if necessary; the number of credits he earned toward high school graduation; the name of his doctor and dentist, the date of his last visit, and the services provided; scheduled visits with his family to foster reunification; a plan to help him transition from a group home to independent living, including an independent living plan and agreement; and his parents' signatures. He gives the statute a much too miserly reading.

It is true that Welfare and Institutions Code section 706.6 states that a plan shall include a laundry list of information, including: “(b) An assessment of the minor's and family's strengths and needs and the type of placement best equipped to meet those needs.

“(c) A description of the type of home or institution in which the minor is to be placed, including a discussion of the safety and appropriateness of the placement. An appropriate placement is a placement in the least restrictive, most family-like environment, in closest proximity to the minor's home, that meets the minor's best interests and special needs.

“(d) Effective January 1, 2010, a case plan shall ensure the educational stability of the child while in foster care and shall include both of the following:

“(1) Assurances that the placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

“(2) An assurance that the placement agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement, or, if remaining in that school is not in the best interests of the child, assurances by the placement agency and the local educational agency to provide immediate and appropriate enrollment in a new school and to provide all of the child’s educational records to the new school. [¶] . . . [¶]

“(g) Scheduled visits between the minor and his or her family and an explanation if no visits are made. [¶] . . . [¶]

“(j) A schedule of visits between the minor and the probation officer, including a monthly visitation schedule for those children placed in group homes.

“(k) Health and education information about the minor, school records, immunizations, known medical problems, and any known medications the minor may be taking, names and addresses of the minor’s health and educational providers; the minor’s grade level performance; assurances that the minor’s placement in foster care takes into account proximity to the school in which the minor was enrolled at the time of placement; and other relevant health and educational information.

(l) When out-of-home services are used and the goal is reunification, the case plan shall describe the services that were provided to prevent removal of the minor from the home, those services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail. [¶] . . . [¶]

“(o) A statement that the parent or legal guardian, and the minor have had an opportunity to participate in the development of the case plan, to review the case plan, to sign the case plan, and to receive a copy of the plan, or an explanation about why the parent, legal guardian, or minor was not able to participate or sign the case plan.

“(p) For a minor in out-of-home care who is 16 years of age or older, a written description of the programs and services, which will help the minor prepare for the transition from foster care to independent living.”

The probation department prepared a dispositional report and attached a copy of the case plan as an exhibit to the report. The court received the dispositional report into evidence and reminded counsel, “Don’t forget that we have been over a lot of this territory. This will be the like third time.” Moreover, the court presided over the contested parole violation hearing, during which personnel from the camp testified about Raymond’s progress, including the counselor who was most directly responsible for Raymond’s treatment. As a result, the court was intimately familiar with Raymond’s background, potential, and challenges, and the barriers to his becoming a productive, law-abiding citizen.

Reasons for Minor’s Placement. The “Minor and Family Assessment/Case Plan” identifies a multitude of risk factors present in Raymond’s current placement at camp, including his antisocial friends, his gang member/associate friends, the fact he admires and leads his antisocial friends, his lack of prosocial community ties, his current use of drugs and alcohol, his impulsiveness, aggressiveness, and resentment toward authority, his temper, his lack of remorse, and his antisocial values that support criminality as he continues to blame his victims and minimize the harm his actions cause. The plan outlines interventions to address each of his many issues. Nevertheless, he complains the plan was not tailored to address the reasons why the court placed him in a group home, did not describe the type of placement best suited to him, nor did it describe the services to be provided.

The dispositional report provided the court an even more extensive description of the problems and obstacles Raymond had encountered at his placement at camp and how a residential treatment program would be better equipped to meet his needs. In short, Raymond had failed to adjust to juvenile hall and Camp Peterson. He received an

excessive number of negative incident write-ups and acquired 37 permanent holdover days. He admitted to two violations of parole while at camp and the court found the third one to be true, including using drugs while incarcerated.

It is clear from the case plan and the dispositional report that Raymond's rehabilitation was thwarted in his current placement. The report thereafter described the potential benefits of a placement program for him where he could receive the needed services and support to treat his substance abuse, anger management, lack of prosocial skills, and severe gang issues. The report states the residential treatment program provides treatment for youth who exhibit a wide range of behavioral, psychological, educational, and emotional needs. The report further recommends an additional hearing wherein placement in a specific facility to meet Raymond's individual needs would be ordered.

Raymond requested placement in Glen Mills Schools in Pennsylvania, a request granted by the court. The grounds included in attachment 3 to the petition to modify previous orders explain why Glen Mills was chosen and how the placement would meet Raymond's needs: "Probation strongly recommends Glen Mills Schools for minor [A.]. The minor has numerous behavior incidents at Juvenile Hall, ongoing substance abuse issues, and a recent camp failure as a result of his poor behavior. Probation feels the minor can receive the best treatment at Glen Mills School. Glen Mills Schools offers a safe, highly structured environment in which the minor will work in a peer driven culture, where he will learn the behavior norms of society. The minor has displayed the inability to control his anger and program appropriately in Juvenile Hall and Camp. Therefore, Probation believes the minor will be most successful at Glen Mills Schools because of the program[']s intensive treatment and enhanced services program. The minor will also have opportunities to learn a vocation and meet his education needs in a structured setting. It is believed the programs in California do not meet the treatment needs of the minor in the structured environment his behavior requires."

The testimony at Raymond's violation of probation hearing provided additional insight into Raymond's potential. Although the two camp employees who testified both echoed the same catalogue of Raymond's shortcomings, his counselor expressed greater confidence in his intellectual gifts and his ability to change. He pointed out that Raymond demonstrated a keen intelligence and is "one of those people that's two steps ahead of everybody. He's a really quick thinker and I think sometimes when things don't make sense to him, he has a tendency to challenge that. Which is an admirable quality in most people" At the contested disposition hearing, his lawyer reminded the court that Raymond had been a GATE (Gifted and Talented Education) student.¹ The lawyer surmised that the educational program offered at camp bored Raymond and led to further misbehavior. He argued, "Where -- I will offer this from life experience with my own kids and I will submit to you that if you expect a person of Raymond's intelligence to stay fully engaged in a program as simplistic as a One School geared to the lowest common denominator, you are going to have huge problems with boredom."

We agree with the Attorney General that the record provides ample support for the trial court's placement order. The case plan, the dispositional report, and the testimony all confirm that a bright young man was foundering in a camp seething with gang members and drugs and unable to provide the intellectual rigor Raymond needs. Glen Mills Schools, however, offers the structured, challenging academic environment Raymond needs, while at the same time providing treatment for the many issues he must address.

Other Relatives. Raymond complains that the case plan did not explain why he could not be placed with either his grandfather or his aunt when both had attended various court hearings. Welfare and Institutions Code section 706.6 does not require the

¹ The probation report states, however, that although Raymond was accepted into the GATE program, he never took advantage of the opportunity.

case plan to provide information about the feasibility of placement with various family members. Nor is there anything in the record to suggest that Raymond's grandfather or aunt would provide suitable placement. In fact, the grandfather told the probation department that Raymond would not follow his rules and he did not want Raymond to live with him. At neither of the two hearings she attended did his aunt offer to house him or demonstrate that she could provide the type of intensive treatment and supervision he required.

Health and Education. Section 706.6, subdivision (k) of the Welfare and Institutions Code provides a basic sketch of health and education information to be disclosed in the case plan, including providers' names if available, any known medications, school records, and the minor's grade level performance. Raymond insists that the plan did not include sufficient details about the number of credits he had earned, his medical providers' names, when he was seen, and what services had been provided to him.

The case plan, as described above, was augmented by the probation department's dispositional report. As mentioned, the case plan form was attached as an exhibit to the dispositional report. In essence, the two documents, when taken together, more than satisfied the intent of Welfare and Institutions Code section 706.6 to provide the court a comprehensive assessment of the minor and to enable it to make an appropriate placement. In this case, the court was also aided by the testimony at the contested hearing.

Thus, the court was informed that Raymond was enrolled in the camp school full time, he was receiving C's, D's, and some F's, and he was in the 11th grade. Probation had not received his school records before he was incarcerated. His poor performance left a graduation date uncertain. He was not enrolled in special education classes and did not have an individual education plan. In contrast to his dreary record of lackluster performance, his counselor testified that he was extremely bright and had real intellectual

potential. The trial court was presented with substantial evidence of his academic performance sufficient to satisfy Welfare and Institutions Code section 706.6.

The language of the statute appears to anticipate the difficulty in obtaining health information, referring, for example, to “known medications” and “known medical problems.” (Welf. & Inst. Code, § 706.6, subd. (k).) The dispositional report states that Raymond is in good health and does not take any medications. While it may be preferable to identify the name of current providers, if any, or to explain that the minor does not have a medical provider, we conclude that the failure to do so would not have affected his placement in Glen Mills Schools when all available information suggests the minor is healthy and not taking any medication.

Transition to Independent Living. Welfare and Institutions Code section 706.6, subdivision (p) requires a written description of the services and programs that will be provided to the minor to help him transition from foster care to independent living. Raymond complains that the probation department did not complete a “Transitional Independent Living Plan and Agreement” as described in California Rules of Court, former rule 5.502(40). While it is true such a formal plan is not part of the record, the substance of what would have been included is set forth in the probation department’s petition for placement at Glen Mills Schools. A fair reading of the petition discloses that Glen Mills Schools will provide the necessary transition services in that it “offers a safe, highly structured environment in which the minor will work in a peer driven culture, where he will learn the behavior norms of society. The minor has displayed the inability to control his anger and program appropriately in Juvenile Hall and Camp. Therefore, Probation believes the minor will be most successful at Glen Mills Schools because of the program[’]s intensive treatment and enhanced services program. The minor will also have opportunities to learn a vocation and meet his education needs in a structured setting.” The court was adequately informed that Glen Mills Schools would provide

Raymond the educational and vocational skills he would need to navigate the world independently. Nothing more was necessary.

Parental Involvement. Finally, Raymond contends the plan was inadequate because it did not bear his parents' signatures. Parental and family support is highlighted throughout the dispositional report and the case plan. Raymond's father had been available for home visits from camp. Yet during the development of the case plan several unsuccessful attempts were made to contact his parents. Raymond's maternal aunt stated she did not know how to get in touch with his mother. Raymond's father did not return phone calls. Thus, we conclude that reasonable attempts were made to obtain the parents' signatures and to solicit their involvement. Because Raymond's request for out-of-state placement was granted, regular visitation would be impractical. We find nothing fatally deficient in the plan and report given the all too common and sad reality that at times the parents of delinquent children are unavailable.

In *In re Melvin J.* (2000) 81 Cal.App.4th 742, 753 (*Melvin J.*), disapproved on other grounds in *John L. v. Superior Court* (2004) 33 Cal.4th 158, 181, footnote 7, the minor objected that the juvenile court did not have a copy of the current social study before it when it made its dispositional order. That court distinguished *In re L.S.* (1990) 220 Cal.App.3d 1100 (*L.S.*). "In *In re L. S.*, the court at the disposition hearing had not handled the adjudication hearing and knew nothing about the case. There had never been a report prepared for the disposition hearing in that case and the court in that case was unaware of the minor's problems and whether any drug abuse issues existed. Here, by contrast, the juvenile court had been working closely with the minor for months in an effort to help him and had the benefit of three recent written probation reports. In addition, the juvenile court in the instant case had the benefit of an oral report on the findings of the probation officer presented to it the very day of the disposition hearing by the court probation officer. [¶] Thus, the instant situation is not one where no report was ever prepared. It is a case where reports were continually prepared each time the

disposition hearing was continued, even if it was only continued for a period of weeks. When the juvenile court in the instant case acted, it had received three written reports and one oral summary in the span of six months. The juvenile court was aware of all underlying facts at the time it acted.” (*Melvin J.*, at p. 755.)

Our case is much more analogous to *Melvin J.* than to *L.S.* As in *Melvin J.*, the juvenile court had received several dispositional reports and the case plan, and had listened to the testimony offered at the contested hearing. There was no shortage of information about Raymond’s history, performance, and needs. The court carefully considered all of the information it had at its disposal.

We must remind Raymond that we are reviewing the court’s dispositional order for an abuse of discretion. In reviewing the entire record to assess whether the court abused its discretion, we pay particular attention to the information required by Welfare and Institutions Code section 706.6. On the record before us, we conclude that the probation department’s case plan is in substantial compliance with section 706.6. More significantly, the court was not limited to a review of the case plan, but to a review of Raymond’s entire history. The case plan was one exhibit to a much broader discussion of Raymond’s unique needs described in the probation department’s dispositional report. As described in some detail above, the case plan, when augmented by the dispositional order, the transcript of the contested hearing, and Raymond’s entire file, provides ample support for the court’s dispositional order.

Thus, we can find no abuse of discretion. As evidenced by his ongoing behavior issues and poor academic performance, the juvenile hall and camp were not providing adequate support and treatment for Raymond. The court properly determined that the more structured and rich environment offered by Glen Mills Schools had greater potential for rehabilitation and vocational training. The minor technical gaps in the case plan are not enough to derail the court’s dispositional order. Moreover, there is no reasonable probability that a different outcome would have resulted had the relevant information

been included in the case plan in addition to its inclusion elsewhere in the record. (*In re Riva M.* (1991) 235 Cal.App.3d 403, 412-413.)

II

Raymond also argues that the disposition order must be reversed because the juvenile court did not make specific findings regarding his educational needs or limit his parents' right to make educational decisions for him. California Rules of Court, former rule 5.790(f)(5) provides: "The court must consider whether it is necessary to limit the right of the parent or guardian to make educational decisions for the child. If the court limits this right, it must follow the procedures stated in [California Rules of Court,] rule 5.650." The rule requires only that the court "consider" the issue; it does not require the court to state a finding on the record. There is no indication that the court did not consider Raymond's educational needs when it made its order. Indeed, all the evidence is to the contrary.

The juvenile court judge asked Raymond about his poor academic performance. Although the prosecutor, defense counsel, and Raymond's counselor at camp all recognized his intellectual potential and described him as a bright young man, he was earning C's, D's, and F's. Every report noted the dissonance between his potential and his performance. Ultimately, the probation department conceded that neither the hall nor the camp could meet his educational needs. In probation's view, he needed the structure and the rigor provided by Glen Hills Schools. The record satisfies us that the court "considered" his educational needs.

We agree with the Attorney General that specific education findings pursuant to Welfare and Institutions Code section 727.2 and California Rules of Court, former rule 5.790(f)(5) are not required because the court did not limit the right of Raymond's parents to make educational decisions for him. If Raymond needs to have a guardian appointed to make educational decisions for him, the proper mechanism is not to order an

entirely new disposition hearing. By an appropriate application, Raymond may request such relief if, and when, the circumstances warrant.

DISPOSITION

The dispositional order is affirmed.

_____ RAYE _____, P. J.

We concur:

_____ ROBIE _____, J.

_____ MURRAY _____, J.