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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

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

THE PEOPLE,

Plaintiff and Respondent,

v.

A. A.,

Defendant and Appellant.

D059893

(Super. Ct. No. J213567)

APPEAL from a judgment of the Superior Court of San Diego County, Polly H. Shamoon, Judge. Affirmed.

This appeal arises from a decision of the juvenile court to commit A.A. (Minor) to the Department of Juvenile Justice (DJJ). Minor challenges the commitment contending the trial court abused its discretion in deciding to commit him to DJJ without first making a finding he would benefit from such placement. We find the juvenile court did not

abuse its discretion in finding all other placements have failed and that Minor poses a risk of physical harm to others given his numerous assaultive crimes. The court's other comments at the disposition hearing support an implied finding he will benefit from placement at DJJ because other placements have failed.

FACTS AND PROCEDURAL BACKGROUND

We first observe that Minor does not challenge the propriety of the revocation of his latest grant of probation. His only challenge is to the juvenile court's exercise of discretion in committing him to DJJ. Accordingly, we will focus our factual and procedural background on matters relevant to the court's decision.

Minor was born in January 1993. He was first involved in the juvenile justice system in December 2006, when he admitted committing a misdemeanor battery (Pen. Code,¹ § 242). Minor was declared a ward of the court and placed on home supervision.

On January 8, 2008, Minor admitted violating his probation by smoking marijuana and being suspended from school. Minor was committed to the short term offender program for a period not to exceed 90 days.

On March 6, 2008, Minor admitted hitting a person with a deadly weapon (§ 245, subd. (a)(1)). He was committed to Breaking Cycles for a period not to exceed 240 days. On November 6, 2008, Minor was again committed to Breaking Cycles.

On April 13, 2009, Minor admitted kicking a person in the head in violation of section 245, subdivision (a)(1). He was committed to Breaking Cycles for a third time.

¹ All further statutory references are to the Penal Code unless otherwise specified.

On October 22, 2009, Minor admitted another violation of section 245, subdivision (a)(1), by getting into a fight at a juvenile ranch facility and kicking another person in the head and face. This time Minor was committed to a more restrictive facility, Camp Barrett, for a period not to exceed 270 days.

On January 21, 2010, Minor admitted violating probation by failing to complete the Camp Barrett program because of a variety of misconduct including fighting and associating with members of a criminal street gang. On this occasion Minor was committed to another more restrictive facility, the County Youthful Offender Unit. Minor completed the program there on December 22, 2010 and was released to his mother.

On February 3, 2011, Minor admitted his latest violation of probation. Upon release from the Youthful Offender Unit, Minor was enrolled at Vista High School. Within days he had stolen an I-Pod from a student and threatened to beat up the student if he reported the theft. He was suspended from high school.

The juvenile court conducted a contested disposition hearing on the question of placement. The probation officer's report recommended a second commitment to the Youthful Offender Unit.

Three witnesses testified on Minor's behalf. Three teachers from the Youthful Offender Unit testified Minor was a good student and would benefit from a return to the unit. None of the teachers had any knowledge of or experience with the Minor's conduct outside the classroom. Minor did not testify.

At the conclusion of the disposition hearing, the trial court committed Minor to DJJ. The court found the other commitments had not provided rehabilitation. It also found Minor's repeated violent assaults, gang association and threatening behavior presented a serious risk to public safety. In its final remarks the court said: "With that, I hope DJJ, [Minor], will make a difference to you that at the local level we have not been able to make."

DISCUSSION

Minor contends the juvenile court abused its discretion in committing him to DJJ without first making a finding that it is probable he would benefit from such commitment. As we will explain, the record supports the trial court's exercise of discretion. While the trial court did not expressly make such finding, it did find the multiple prior placements had not been successful in rehabilitating Minor and that the Minor's persistent violent behavior would pose a risk to others if not corrected. We think the record supports an implied finding that it is probable DJJ will benefit the Minor, particularly since all other efforts have failed.

Juvenile courts enjoy broad discretion to make disposition and placement decisions in an attempt to rehabilitate minors in the juvenile courts. Placement decisions, including placement at DJJ, will not be overturned unless the record establishes an abuse of discretion. (*In re George M.* (1993) 14 Cal.App.4th 376, 379; *In re Pedro M.* (2000) 81 Cal.App.4th 550, 555-556.) Appellate courts draw all reasonable inferences in

support of the juvenile court's decision. (*In re Asean D.* (1993) 14 Cal.App.4th 467, 473.)

In making a decision whether to place a minor in DJJ, the court may consider issues of punishment and public safety, in addition to the rehabilitative needs of the minor. (*In re Luisa Z.* (2000) 78 Cal.App.4th 978, 987-988.)

In the present case it is beyond dispute that the alternatives to DJJ commitment have not been successful in rehabilitating the Minor. The alternatives used by the juvenile court have included probation and placement with his mother, short term offender program, three commitments to Breaking Cycles, a commitment to Camp Barrett, and one commitment to the Youthful Offender Unit. Throughout the period of probation Minor has repeatedly engaged in violence, including three felony assaults under section 245, subdivision (a)(1). Within seven days of his "successful completion" of the Youthful Offender Unit program, Minor had been suspended from school, bullied other students, stolen an I-Pod and threatened the victim with a beating if it was reported, and continued his association with gangs. Clearly, a juvenile court judge could reasonably conclude the alternatives to DJJ had not worked and that further violence by Minor was highly likely unless corrected.

Thus, the only remaining question is whether there is a probable benefit to Minor by commitment to DJJ. We think a reasonable judge could well conclude the DJJ may be this minor's last chance to avoid further felony violence and its very likely future commitment to state prison. Failure within a week after leaving the Youthful Offender

Unit provides little comfort that yet another commitment to the same place would magically turn this minor away from gangs and violence. By the time of the DJJ commitment, Minor had spent 932 days in custody.

While it would have been better practice for the juvenile court judge to specifically articulate her views on the probable benefit a DJJ commitment would provide, there is clearly sufficient evidentiary basis in this record to support the implied finding. The court did not abuse its discretion in committing Minor to DJJ.

DISPOSITION

The judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

NARES, J.

HALLER, J.