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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

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

THE PEOPLE,

Plaintiff and Respondent,

v.

C.V.,

Defendant and Appellant.

E053122

(Super.Ct.No. J236357)

OPINION

APPEAL from the Superior Court of San Bernardino County. Thomas S. Garza,  
Judge. Affirmed.

Esther K. Hong, under appointment by the Court of Appeal, for Defendant and  
Appellant.

No appearance for Plaintiff and Respondent.

I

**INTRODUCTION**

On December 6, 2010, the San Bernardino County District Attorney filed a

juvenile wardship petition pursuant to Welfare and Institutions Code section 602,<sup>1</sup> which charged C.V., a minor, with a single count of violating Penal Code section 243, subdivision (b), battery upon an officer and emergency personnel, a misdemeanor.

The juvenile court sustained the allegations in the petition, following a contested jurisdictional proceeding conducted on February 9, 2011. C.V. was ordered to undergo a psychological evaluation and referred to the probation department for a disposition report. Dr. Haig Kojian performed a psychological assessment of C.V. and his report was filed with the court. At the disposition hearing on March 11, 2011, the juvenile court did not declare C.V. a ward of the court. Instead, the court ordered C.V. placed in the custody of her parents, ordered summary probation (§ 725, subd. (a)), ordered C.V. to pay restitution, and mandated parental involvement (§§ 727, subd. (b) and 731).

C.V. appeals from the jurisdiction and disposition orders, citing *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case, a summary of the facts, and requesting this court to undertake a review of the entire record.<sup>2</sup>

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<sup>1</sup> Unless otherwise noted, all statutory references are to the Welfare and Institutions Code.

<sup>2</sup> We granted C.V.'s request filed on March 9, 2012, for judicial notice of case No. E054009, in which C.V. filed a petition for writ of habeas corpus on July 13, 2011. C.V.'s writ petition requested an order directing the juvenile court to (1) address and determine C.V.'s educational needs and identify a plan for meeting those needs, and (3) complete Judicial Council Forms, form JV-535. This court construed C.V.'s writ petition as a petition for writ of mandate, and on February 1, 2012, granted relief. On March 5, 2012, this court issued a peremptory writ of mandate, directing the superior court to follow California Rules of Court, rule 5.651 and complete form JV-535, unless it would be inappropriate to do so because the superior court no longer had jurisdiction over C.V.

We offered the minor an opportunity to file a personal supplemental brief, which she has not done.

We have concluded our independent review of the record and find no arguable issues or errors. The judgment is affirmed.

## II

### FACTUAL BACKGROUND

#### *A. Prosecution Evidence*

Detective Hintz testified at the jurisdiction hearing to the following facts. On November 21, 2010, at approximately 2:40 a.m., Detective Hintz responded to a dispatch call, requesting assistance at a Rialto residence, regarding an unknown problem between a mother and her missing daughter. When Hintz arrived, there were already two officers at the scene, searching for the daughter. Hintz noticed a young man driving around the block in a green Honda and stopped him. The young man said he was there to pick up a friend. While talking to the man, Hintz heard the mother, who was on the other side of the street, say her daughter, C.V., was “51/50.” Hintz saw C.V. walk out from some bushes, carrying two duffel bags, and heard her screaming and yelling at her mother. C.V. threw the duffel bags at her mother’s feet. C.V. then clenched her fists and walked across the street towards Hintz, screaming. C.V. yelled at Hintz, “Take me mother fucker.” Hintz felt threatened by C.V. and by the young man in the Honda.

Hintz told C.V. to “Relax, calm down.” About a second later, when C.V. was one and a half feet from Hintz, Hintz grabbed C.V.’s right hand or arm. C.V. began spinning and flailing her arms, while yelling and cursing. As Hintz pinned C.V. against the rear of

the young man's Honda, C.V. punched Hintz in the face. Hintz grabbed C.V.'s left hand and swept her off her feet, onto the ground. Another officer, who was nearby, assisted Hintz in handcuffing C.V. C.V. smelled of alcohol and appeared intoxicated. Hintz placed C.V. in his patrol car and transported her to the Arrowhead Regional Medical Center.

*B. Defense Evidence*

C.V.'s mother (mother), who spoke very little English and required an interpreter, testified as follows. When mother arrived home from work on November 21, 2010, around 12:40 a.m., she noticed C.V. appeared upset. C.V. had a "51/50 look on her face." The two started arguing and became belligerent. C.V. grabbed mother by the throat. This scared mother. C.V. had been violent like this before. This is why mother called 911. Mother was concerned about C.V.'s mental health and hoped the paramedics would arrive and take C.V. to the hospital, as had happened in the past. Instead, police officers arrived. They attempted to help mother find C.V., who had run away. While two of the officers were on the other side of the street looking for C.V., mother saw C.V. emerge from the bushes near mother. Hintz was not one of the two officers on the other side of the street. Mother did not recall seeing Hintz. Mother told the officers C.V. was "51/50." Mother did not say anything else because she only spoke Spanish.

Mother saw officers approach C.V., beat her, throw her against a car, and then throw her to the ground. Two officers grabbed C.V. Mother did not see C.V. approach the officers in a threatening manner with her fists clenched or do anything physically confrontational. But mother conceded she did hear C.V. say "bad words." C.V. appeared

upset. She was cussing and yelling and trying to break free. Two more officers arrived. According to mother, the officers punched C.V. in the rib area while she was on the ground. Then the officers threw C.V. into a patrol car. Mother was watching the entire time.

### III

#### DISCUSSION

C.V. has proposed three issues for our independent review: (1) There was insufficient evidence to support the true finding of battery upon an officer; (2) the juvenile court did not properly impose restitution fines; and (3) C.V., as a minor, was statutorily ineligible for informal probation under section 654.

With regard to the first issue, C.V. suggests there was evidence Hintz used excessive force against C.V., resulting in an unlawful performance of his duty and triggering C.V.'s right to self-defense. We have reviewed the record to determine whether there was sufficient evidence to support the true finding as to the battery allegation and as to the potential defense of use of excessive force. In deciding the sufficiency of the evidence, a reviewing court resolves neither credibility issues nor evidentiary conflicts. (*People v. Zamudio* (2008) 43 Cal.4th 327, 357.) Resolution of conflicts and inconsistencies in the testimony is the exclusive province of the trier of fact. (*People v. Maury* (2003) 30 Cal.4th 342, 403.) An appeal challenging the sufficiency of the evidence to support a juvenile court judgment is governed by the same standards of review applicable to a similar claim by a criminal defendant. (*In re Ryan N.* (2001) 92 Cal.App.4th 1359, 1371.)

Moreover, unless the testimony is physically impossible or inherently improbable, testimony of a single witness is sufficient to support a conviction. (*People v. Young* (2005) 34 Cal.4th 1149, 1181.) Here, the testimony of Hintz constitutes substantial evidence to support the true finding on the battery allegation, and sufficiently refutes the defense of excessive use of force.

As to the propriety of imposing restitution fines, there was no error. The juvenile court ordered C.V. to pay a \$25 restitution fee pursuant to sections 730.6 and 730.7, as recommended in the probation report, plus a 10 percent collection fee (\$2.50) pursuant to section 730.6, subdivision (q), for the administrative cost of processing the account. The imposed restitution was properly imposed under sections 730.6, 730.7, and 731.

We also conclude there is no basis for challenging the juvenile court order imposing summary probation under section 725, subdivision (a). We have concluded our independent review of the record and find no arguable issues.

#### IV

#### DISPOSITION

The judgment is affirmed.

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CODRINGTON

J.

We concur:

HOLLENHORST

Acting P.J.

RICHLI

J.