

NOT TO BE PUBLISHED IN OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

FOURTH APPELLATE DISTRICT

DIVISION TWO

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

THE PEOPLE,

Plaintiff and Respondent,

v.

J.C.,

Defendant and Appellant.

E054423

(Super.Ct.No. J231860)

OPINION

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

Beth Caldwell, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

A juvenile wardship petition was filed in San Bernardino County on March 18,
2010, alleging that defendant and appellant J.C. (minor) fought in a public place (Pen.

Code, § 415, subd. (1), count 1) and committed simple battery (Pen. Code, §§ 242, 243, subd. (a), count 2). Minor admitted count 2, and the juvenile court dismissed count 1. The case was transferred to Los Angeles County for disposition because minor was found to reside in Los Angeles. The case was subsequently transferred back to San Bernardino County when it was discovered that minor was actually living there. A disposition hearing was held on July 6, 2011, and the court declared minor a ward and placed him on probation in the custody of his parents. Approximately two weeks later, a probation violation petition was filed alleging that minor violated the terms of his probation by leaving home without permission and staying out past the court-ordered curfew. He admitted the violation. After a contested disposition hearing on August 17, 2011, the court ordered minor to serve 169 days in juvenile hall, with credit for 29 days served. The court further ordered that minor be released to himself on his 18th birthday, which was on January 4, 2012.

Minor filed a timely notice of appeal regarding the August 17, 2011 disposition. We affirm.

PROCEDURAL BACKGROUND

On July 25, 2011, a probation violation hearing was held. Defense counsel waived the reading of the notice of violation and indicated to the court that minor wanted to admit the allegation in the probation violation petition. Minor confirmed with the court that he had spoken with his attorney and understood his rights. He also confirmed that no one was forcing him to make an admission, and no one had made any promises to him. Defense counsel stipulated to the probation report in support of the petition. Minor

admitted that he violated his probation by leaving home and failing to return by his curfew, without being accompanied by a parent or having permission. His counsel joined in the admission. The court found that minor had knowingly and intelligently waived his right to a hearing, as well as his constitutional rights, and that his admission was made freely and voluntarily. The court deemed the allegation in the petition true and set the matter for a disposition hearing on August 8, 2011. The court detained him pending the hearing.

The probation officer filed a report recommending that minor be detained in juvenile hall until his 18th birthday on January 4, 2012. Minor's father felt that he was "out of control," and it was his mother's fault. His father and mother were separated, but his mother would call his father when minor was "out of hand." Minor's mother told the probation officer she was in fear of minor due to his temper. In May 2011, he became physically aggressive with his sister, and when his mother tried to intervene, he struck her in the jaw. He had also threatened to kill the whole family. Minor would leave their home for days at a time, and his mother could not control him. He rarely attended school. He was classified as a senior, even though he only had about 18 credits toward graduation, which was less than that of a freshman. He had been suspended numerous times for causing physical injury to others, committing obscene acts, disrupting school activities, and willfully defying school personnel. Minor admitted to smoking marijuana daily.

The probation report noted that the first time minor reported to the probation officer, he was rude, belligerent, and demanding, and his behavior had to be redirected at

multiple intervals. When one officer attempted to talk to him, he yelled and cursed at her.

The disposition hearing was held on August 17, 2011. Minor's father testified that he was able to take minor into his home. Minor had lived with his father in 2007 for one year, then went back to live with his mother. Minor had not lived with father since then. Minor's father admitted to previously using crack cocaine. He said he was incarcerated in 1987 for drug possession, and in 2005 for evading an officer. Minor's father was now a forklift operator who worked nights. He said his lady friend would watch minor at night. After hearing testimony from minor's father and the probation officer, the court ordered that minor serve 169 days in juvenile hall with credit for 29 days, and be released to himself on his 18th birthday on January 4, 2012.

ANALYSIS

Minor appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d 493] setting forth a statement of the case and two potential arguable issues: 1) whether minor's admission to the probation violation was given with a knowing and intelligent understanding of his right to an evidentiary hearing; and 2) whether the court abused its discretion in ordering him to serve time in custody in juvenile hall for a first-time probation violation, on a relatively minor offense (simple battery). Counsel has also requested this court to undertake a review of the entire record.

We offered minor an opportunity to file a personal supplemental brief, which he has not done. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

HOLLENHORST
Acting P. J.

We concur:

KING
J.

CODRINGTON
J.