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

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

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

THE PEOPLE,

Plaintiff and Respondent,

v.

D.C.,

Defendant and Appellant.

E057908

(Super.Ct.No. J239666)

OPINION

APPEAL from the Superior Court of San Bernardino County. Brian Saunders,  
Judge. Affirmed.

Theresa Osterman Stevenson, 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 alleging that  
defendant and appellant D.C. (minor) committed the crime of vandalism with damages

under \$400. (Pen. Code, § 594, subd. (B)(2)(A), count 1.) A juvenile court placed him on informal probation, pursuant to Welfare and Institutions Code section 654.2, with certain terms, including the completion of 40 hours of community service, attendance at a victim’s awareness class, and payment of victim restitution in the amount of \$158.99.<sup>1</sup> At an appearance review hearing six months later, it was reported that minor had failed to complete any of the required terms. The court granted him an extension to complete the requirements and ordered him to appear on August 20, 2012. Minor failed to appear on that date. The court issued a bench warrant, but held it until September 19, 2012, and ordered minor to appear on that date. On September 19, 2012, minor failed to appear again, so the court announced that it would terminate the informal probation and reinstate the petition. Defense counsel objected, but later withdrew the objection. The court terminated the informal probation and reinstated the petition.

Defense counsel subsequently moved to suppress minor’s statements to police, pursuant to *Miranda v. Arizona* (1966) 384 U.S. 436 (*Miranda*). The court held a hearing and denied the motion.

At a jurisdictional hearing on October 25, 2012, the court found that minor met the qualifications of Penal Code 26<sup>2</sup> and found true the allegation in count 1. The court

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<sup>1</sup> The damaged item was a window, which the victim had repaired at the cost of \$158.99.

<sup>2</sup> Penal Code 26 provides that “[a]ll persons are capable of committing crimes except . . . . [¶] . . . Children under the age of 14, in the absence of clear proof that at the time of committing the act charged against them, they knew its wrongfulness.”

ordered the probation department to submit a dispositional report prior to the next hearing.

The probation department submitted a report, in which it stated that the parties stipulated that the restitution amount was \$158.99 when minor was granted informal probation. However, the victim's mother was strained financially and could not reimburse the victim. The victim's mother did not feel that probation supervision was needed, and "just want[ed] to pay the restitution." However, she could not reimburse the victim at that time. The probation officer recommended to the court that it declare minor a ward, impose restitution terms and conditions, and then "dismiss[]" as a terminal disposition," with the order that minor pay the victim restitution in the amount of \$158.99, pursuant to Welfare and Institutions Code sections 730.6 and 730.7.

A dispositional hearing was held on November 27, 2012. The court stated that it was inclined to follow the probation officer's recommendation "to do terminal disposition with restitution terms," but just needed confirmation that minor had completed the community service hours he originally agreed to. The court continued the hearing for the probation officer to submit a memorandum regarding the completed hours.

The probation officer submitted a memorandum indicating that minor had provided proof that he completed 10 hours, but his mother could not find the documentation regarding the other 30 hours she said minor had also completed. The probation officer asked minor to "re-do" the 30 hours at his church and bring documentation to the next hearing.

At the continued dispositional hearing on January 8, 2013, minor appeared with his brother. Minor's counsel informed the court that his mother "couldn't make it," and stated, "We have the 20 hours he did at a church." The court stated, "We'll waive his appearance and terminate his probation." The minute order indicates that the court read and considered the probation officer's memorandum, and "declared and discharged [minor] as a ward." It also states that "the orders of victim restitution . . . and/or any other court ordered fines or fees are to remain in effect until paid in full pursuant to [Welfare and Institutions Code section] 730.6/730.7 . . . ."

Minor filed a timely notice of appeal. We affirm.

#### FACTUAL BACKGROUND

On April 29, 2011, the victim heard a noise and saw that the front window on her house was broken. She immediately looked outside and saw three boys standing across the street. They took off running, and the victim got in her car and followed them to the school yard. Two of the boys stopped, and one of them kept running. The victim spoke to the two boys and called the police. The police arrived at the school with minor in the back seat of the patrol car. The police later brought minor's mother to the victim's house. Minor's mother agreed to pay for the window, and the victim agreed to not press charges. Minor's mother and the victim exchanged information. The victim attempted to call the victim's mother several times, but never received any response or any payment. The victim contacted the police, and the police came to her house to take a report.

A police officer went to minor's house to speak with him about the incident. He initially spoke to minor's mother, told her he was conducting an investigation, and asked

if he could speak with minor. She agreed. Minor told the officer that he was with his two friends, and they were throwing rocks. Minor picked up a rock, threw it across the street, and broke a window. Minor knew what he did was wrong and was trying to sell candy bars to pay for the window.

### 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 four potential arguable issues: (1) whether the court erred in denying his motion to suppress statements made to the police officer, in violation of his *Miranda* rights; (2) whether the court properly imposed probation and ordered restitution, as reflected in the minute order, “where such orders are not specifically set forth in the reporter’s transcript”; (3) whether the court erred in ordering restitution without considering minor’s and his mother’s ability to pay; and (4) whether the court erred in failing to discharge the victim restitution order upon termination of minor’s wardship. 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.

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HOLLENHORST  
J.

We concur:

RAMIREZ  
P. J.

MILLER  
J.