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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

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

THE PEOPLE,

Plaintiff and Respondent,

v.

M.B.,

Defendant and Appellant.

E059443

(Super.Ct.No. J237948)

OPINION

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

Caroline R. Hahn, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

While on probation, defendant M.B. (minor) admitted three allegations of
misdemeanor petty theft (counts 2-4; Pen. Code, § 484, subd. (a)). The juvenile court

ordered minor continued on probation with an additional term that he serve 45 days in a juvenile detention center.

After minor's counsel filed the notice of appeal, this court appointed counsel to represent defendant. 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, a brief statement of the facts, and identifying one potentially arguable issue: the juvenile court abused its discretion by ordering minor to serve 45 days in custody instead of continuing in Wraparound services, particularly due to minor's potential diagnosis of ADHD (attention deficit hyperactivity disorder).¹ We affirm.

FACTUAL AND PROCEDURAL HISTORY

On August 27, 2010, minor engaged in an altercation with another student at school during which he stabbed the victim repeatedly with a pencil. On March 14, 2011, the People filed a juvenile wardship petition alleging that minor had committed battery with serious bodily injury (count 1; Pen. Code, § 243, subd. (d)) and committed battery on school property (count 2; Pen. Code, § 243.2, subd. (a)(1)).² On March 30, 2011, minor admitted the allegation in count 2; count 1 was dismissed. The juvenile court

¹ “[T]he Wraparound service program was started in 1997 to provide ‘family-based service alternatives to group home care using intensive, individualized services The target population for the program is children in or at risk of placement in group homes [Citation.]’” (*In re W.B.* (2012) 55 Cal.4th 30, 41, fn. 2.)

² Minor was originally placed on a program requiring that he complete an anger management class in lieu of the filing of a formal juvenile wardship petition. However, minor failed to offer proof of completion and attempts to contact him were unsuccessful.

placed minor on probation with orders to participate in counseling.

On October 24, 2011, the People filed a juvenile wardship petition alleging minor had violated his probation on three separate bases: 1) On September 28, 2011, minor was cited for having a knife on school grounds (allegation A1; § 626.10, subd. (a)); 2) Minor was suspended for having a knife on campus (allegation A2); and 3) On September 27, 2011, minor's guardian found him missing in the middle of the night and minor did not return until 7:00 a.m. (allegation A3).³

On October 27, 2011, minor admitted the A1 allegation. The juvenile court dismissed the remaining allegations upon the People's motion and continued defendant on probation with an additional term that he serve 15 days in juvenile detention.

On November 4, 2011, the People filed a juvenile wardship petition subsequent alleging that on or about October 18, 2011, minor had committed felony second degree commercial burglary of Vernon Middle School (count 1 - § 459). On December 19, 2011, minor admitted the allegation. The juvenile court extended minor's probation for one year.

On January 16, 2013, the People filed another juvenile warship petition alleging minor had violated his probation by failing to return home on January 11, 2013, (allegation A1) and failing to report to his probation officer (allegation A2). The juvenile

³ Although not formally alleged, the probation officer reported additional violations of probation including that on September 27, 2011, minor punched a female student in the stomach and that minor's guardians reported he had been caught stealing from a 99 cent store.

court issued a bench warrant for minor's arrest on January 17, 2013, as minor had still failed to return home. Minor was found and arrested on January 30, 2013.

On February 1, 2013, minor admitted the A1 allegation. The juvenile court continued minor on probation with an additional term that he serve 25 days in juvenile custody.

On May 13, 2013, the People filed a juvenile wardship petition subsequent alleging minor had committed felony commercial burglary of Montclair High School (count 1; § 459) and committed five counts of misdemeanor petty theft (counts 2-6; § 484, subd. (a)). The police officer's report indicated defendant had broken into five lockers and stolen cell phones from each. Two bicycles had also been taken from the school. The probation officer declined supervision in lieu of filing the petition noting "Minor has been on ward probation since [April 29, 2011,] and continues to commit burglar[ie]s despite the numerous resources provided to him through probation. This is his [fourth] felony charge since 2011."

On June 10, 2013, minor admitted the allegations in counts 2 through 4; the remaining allegations were dismissed. On August 2, 2013, the juvenile court held the dispositional hearing. Minor's probation officer testified minor had been diagnosed with cognitive disabilities and adaptive disorder. She testified a school psychologist had said minor may need treatment for ADHD, though she did not know if minor actually suffered from ADHD. The probation officer opined that incarcerating minor would not help him. The minor needed diagnosis and treatment. She had referred minor to the Wraparound program to which minor had been accepted and in which he had already begun

participation. If the juvenile court ordered minor to serve more than 29 days of custody, minor would be terminated from the Wraparound program.

The juvenile court observed that it had not been established defendant had ADHD: “I have absolutely no basis to believe he has ADHD. I have no basis to believe that the period of custody time would not be effective in allowing him to concentrate on the wrongfulness of his actions while at the same time protecting the public.” The juvenile court additionally noted probation could refer minor to the Wraparound program again once he was released from custody: “[P]robation can start the ball rolling with regard to Wraparound services before he’s released.” The juvenile court ordered minor serve 45 days in a juvenile detention center.

DISCUSSION

We offered minor an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues. (*In re Sheena K.* (2007) 40 Cal.4th 875, 889 [“The juvenile court has wide discretion to select appropriate conditions and may impose “any reasonable condition that is ‘fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.’” [Citations.]”].)

DISPOSITION

The judgment is affirmed.

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CODRINGTON
J.

We concur:

RAMIREZ
P. J.

HOLLENHORST
J.