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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

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

THE PEOPLE,

Plaintiff and Respondent,

v.

ROY R.,

Defendant and Appellant.

F063814

(Super. Ct. No. JJD065458)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Hugo J. Loza, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.)

Allan E. Junker, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

* Before Cornell, Acting P.J., Gomes, J. and Franson, J.

This is an appeal from dispositional orders entered on October 20, 2011, after the juvenile court found true the allegations that Roy R. (minor) had committed second degree commercial burglary (Pen. Code, § 459), with an allegation that the offense was committed for the benefit of a criminal street gang (Pen. Code, § 186.22, subd. (b)(1)(A)), and that he had resisted arrest (Pen. Code, § 148, subd. (a)(1)). The juvenile court declared minor a ward of the court, ordered him to probation and to remain in the custody of his father. The juvenile court declared a maximum term of confinement of seven years four months and ordered him to perform 80 hours of community service, register as a gang member (Pen. Code, § 186.30, subd. (b)), and pay a \$100 restitution fine.

After minor filed a notice of appeal, appellate counsel was appointed to represent him. Appointed counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*People v. Wende*), in which he raises no issues for appeal and asks this court for an independent review of the record. (See also *People v. Kelly* (2006) 40 Cal.4th 106, 124 (*People v. Kelly*)). Counsel attests that minor was advised of his right to file a supplemental brief in a timely manner, but he has not exercised such right.

We have examined the entire record in accordance with *People v. Wende*. We agree with counsel that no arguable issue exists on appeal. Accordingly, we affirm the juvenile court's orders.

FACTUAL AND PROCEDURAL BACKGROUND

On May 23, 2011, a Welfare and Institutions Code section 602 petition was filed alleging that minor had committed a felony burglary, with the additional allegation that the burglary was committed for the benefit of a criminal street gang, and that he had resisted arrest, a misdemeanor. The allegations stemmed from an incident that occurred on April 23, 2011, at about 7:00 p.m., when minor and another teenage male entered a

gas station in Visalia. The one teenager approached the store's counter while minor went to the cooler in the rear and then ran out of the store carrying two 18-packs of beer. The other male also fled the store and both ran across the street and into a waiting vehicle driven by another male. The car sped away and was immediately pursued by a police vehicle. After a brief pursuit, the vehicle stopped and appellant fled on foot, but was quickly apprehended by a police officer.

Minor told the officer that he and his "homies" had been drinking beer and decided to do a "beer run." According to minor, he took the beer because he was "the most down" of his "homies" and was not afraid to do it. Minor explained that being "down" meant not being scared of anything and that he was not afraid to steal the beer or run from the police.

Minor told the officer that he had been associated with the Norteno gang since he was 11 years old, but had not yet been "jumped in." The parties stipulated that the Nortenos are a criminal street gang that have engaged in a pattern of criminal activity within the meaning of Penal Code section 186.22, subdivisions (e) and (f). Minor told the officer that the other three males arrested that date were Nortenos. According to a gang expert, when gang members enter a store to steal beer, they are promoting their individual status, benefitting the gang, bolstering the gang's reputation for breaking the law and defying the police, gaining notoriety as a violent gang, and instilling fear in the community and their rivals. According to the expert, even a non-validated gang member acts for the benefit of the gang if he steals beer in concert with gang members.

On May 23, 2011, the People filed notice that minor was eligible for Deferred Entry of Judgment (DEJ). At the initial hearing on June 6, 2011, the People informed minor's counsel that minor was eligible for DEJ, and that it would give minor's father forms explaining the DEJ program. At the August 4, 2011, pre-trial hearing, the juvenile court asked minor's counsel, "What are we going to do in this matter?" to which counsel replied, "We'd like to set this for [an] adjudication" At the September 2, 2011,

readiness conference, the juvenile court asked minor's counsel, "how do you wish to proceed?" and counsel replied, "We're ready to confirm"

On September 12, 2011, the juvenile court began a two-day jurisdictional hearing. Thereafter, the juvenile court denied minor's Welfare and Institutions Code section 701.1 motion to dismiss for insufficiency of the evidence and found true the allegations in the petition.

On October 20, 2011, the juvenile court declared minor a ward of the court, ordered him under the supervision of probation and to remain in the custody of his father, declared the burglary offense a felony, declared a maximum term of confinement of seven years four months, ordered minor to perform 80 hours of community service, ordered him to pay a \$100 restitution fine, and ordered him to register as a gang member.

On November 8, 2011, minor filed a timely notice of appeal of the juvenile court's October 20, 2011, dispositional order.

DISCUSSION

Neither appointed counsel nor minor has indentified any issue for our review. Upon our own independent review of the record, we agree none exists. (*People v. Wende, supra*, 25 Cal.3d 436.) The juvenile court determined minor's commitment to probation and requirement that he register as a gang member after it found substantial evidence that he had committed burglary for the benefit or a criminal street gang and that he had resisted arrest. Thus, having ensured minor has received adequate and effective appellate review, we affirm the juvenile court's dispositional orders. (*People v. Kelly, supra*, 40 Cal.4th at pp. 112-113; *People v. Wende, supra*, 25 Cal.3d 436.)

DISPOSITION

The juvenile court's dispositional order of October 20, 2011, is affirmed.