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

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

THE PEOPLE,

Plaintiff and Respondent,

v.

LUIS M.,

Defendant and Appellant.

F066291

(Super. Ct. No. JJD066169)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Jennifer Conn Shirk, Judge.

Rex Adam Williams, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Michael P. Farrell, Senior Assistant Attorney General, Charles A. French and John G. McLean, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Wiseman, Acting P.J., Cornell, J., and Kane, J.

PROCEEDINGS

On October 23, 2012, the juvenile court readjudged appellant, Luis M., a ward of the court (Welf. & Inst. Code, § 602)¹ after the court found true an allegation of misdemeanor receipt of stolen property (Pen. Code, § 496, subd. (b)).² On December 3, 2012, the juvenile court placed Luis on probation for six months and placed him in his mother's custody. The court also determined that Luis's maximum term of confinement was one year.

On appeal, Luis contends the court erred in setting his maximum term of confinement. Respondent concedes the error. We agree with the parties and reverse the juvenile court's order setting the maximum term of confinement.

DISCUSSION

The parties agree the juvenile court erred in specifying the maximum term of confinement because, although appellant was found to be a ward of the court, he was placed in his parent's physical custody. We accept respondent's concession that the juvenile court erred and will remand for the juvenile court to strike its finding concerning appellant's maximum term of commitment.

Section 726 deals in part with the maximum term of confinement in juvenile wardship cases. (*In re Sean W.* (2005) 127 Cal.App.4th 1177, 1187.) Former subdivision (c) of section 726³ (§ 726(c)) requires the juvenile court to specify that the minor may not be confined for a period in excess of the maximum term of imprisonment that could be

¹ Unless otherwise indicated, all further statutory references are to the Welfare & Institutions Code.

² Because the underlying facts of Luis's offense are not relevant to the issue on appeal, we do not recount them here.

³ Effective January 1, 2013, former subdivision (c) of section 726 was renumbered section 726, subdivision (d). All further references are to the earlier version (§ 726(c)).

imposed on an adult convicted of the offense that brought the minor under the jurisdiction of the juvenile court. By its express terms, however, section 726(c) applies only “[i]f the minor is removed from the physical custody of his or her parent or guardian” (§ 726(c); see *In re Ali A.* (2006) 139 Cal.App.4th 569, 573 (*Ali A.*); see also, *In re Matthew A.* (2008) 165 Cal.App.4th 537, 541 (*Matthew A.*).

Physical confinement is defined under the statute as “placement in a juvenile hall, ranch, camp, forestry camp or secure juvenile home pursuant to Section 730, or in any institution operated by the Youth Authority.” (§ 726(c).) Where, as here, a minor is not removed from the physical custody of his parents or guardian, section 726(c) does not apply. The juvenile court is not required under section 726(c) to include a maximum term of confinement in its dispositional order, and the setting of a maximum term of confinement “is of no legal effect.” (*Ali A.*, *supra*, 139 Cal.App.4th at p. 574, fn. 2.) Accordingly, we will order the juvenile court’s order setting the maximum term of confinement to be stricken. (*Matthew A.*, *supra*, 165 Cal.App.4th at p. 541.)

DISPOSITION

The juvenile court’s order setting appellant’s maximum term of confinement is reversed and the juvenile court is directed on remand to vacate it. The remaining orders of the juvenile court are affirmed.