

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

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

THE PEOPLE,

Plaintiff and Respondent,

v.

E.B.,

Defendant and Appellant.

F069514

(Super. Ct. No. 512993)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Stanislaus County. Valli Israels,
Judge.

Holly Jackson, under appointment by the Court of Appeal, for Plaintiff and
Respondent.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney
General, Michael P. Farrell, Assistant Attorney General, Daniel B. Bernstein and Alice
Su, Deputy Attorneys General, for Plaintiff and Respondent.

-ooOoo-

* Before Levy, Acting P.J., Gomes, J. and Kane, J.

INTRODUCTION

Appellant, E.B. (18 years old in November 2014), challenges the juvenile court's disposition of her pursuant to Welfare and Institutions Code section 602 (unless otherwise designated, statutory references are to the Welfare and Institutions Code). Appellant challenges her commitment to an out-of-home facility rather than being placed with her parent. We affirm the orders of the juvenile court.

FACTS AND PROCEEDINGS

Earlier Proceedings

On May 23, 2012, an undercover police officer from the Modesto Police Department found then 15-year-old appellant's profile on an illicit internet site and called her to arrange a meeting. When they met, appellant solicited sexual acts. Appellant was arrested after telling the officer her price schedule. Appellant was charged with soliciting prostitution (Pen. Code, § 647f) in a petition pursuant to Welfare and Institutions Code section 602. On June 11, 2012, appellant admitted the allegation. On June 25, 2012, the juvenile court placed appellant on probation in her parents' custody.

On July 29, 2013, appellant admitted allegations in a petition filed pursuant to section 777, that she failed to participate in counseling sessions as directed by her probation officer; failed to remain at home during curfew hours; tested positive for marijuana and amphetamines; failed to report in person as directed by her probation officers; and, possessed gang emblems or indicia of gang membership. On August 12, 2013, the juvenile court continued appellant on probation, ordering her in the custody of "placement personnel" under the supervision of probation pending out-of-home placement.

On April 18, 2014,¹ a new petition was filed pursuant to section 602 alleging that appellant was found in possession of drug paraphernalia (Health & Saf. Code, § 11364.1, subd. (a); count 1) and gave false identifying information to a peace officer (Pen. Code, § 148.9, subd. (a); count 2). The petition further listed several violations of probation.² On April 28, appellant waived her constitutional rights and admitted count 2. The remaining allegations were dismissed with a stipulation that the probation violations could be considered at the disposition hearing. The juvenile court found that appellant's continued custody in the home of her parent was contrary to her welfare and ordered the probation officer to be responsible for her temporary placement.

The probation officer's report noted that appellant's overall adjustment was marginal. Appellant's relationship with her parents and her sister was marginal. Appellant had been terminated from one group home due to a psychiatric episode and absconded from a placement in another group home. The probation officer noted appellant was not remorseful, did not understand the seriousness of her offenses, and was significantly delinquently oriented. The probation officer further noted that appellant's family life was dysfunctional, she was truant, abused substances, and suffered depression.

The probation officer believed continued probation would benefit appellant. Appellant had not done anything to address her case plan objectives or further her education. Appellant remained defiant and did as she pleased. The probation officer recommended out-of-home placement in California under the supervision of the probation officer. Appellant had only 81 days remaining on the maximum term of confinement.

¹ Subsequent references to dates are to dates in 2014.

² The violations of probation included appellant's poor behavior while living in a group home, smoking marijuana every other day, and previously admitting to experimenting with ecstasy, methamphetamine, heroin, and cocaine. Appellant also admitted association with gangs.

Disposition Hearing

On May 12, the court noted that probation was recommending that either “to max the minor out of her 81 days or try to get her some sort of in-state placement prior to that.” Defense counsel interjected that he was not sure all of the alternatives had been given consideration. Counsel argued his client had a solid succession of 32-point days represented by certificates of excellence and completion. Appellant’s mother had been visiting appellant regularly. Counsel believed that although appellant had a good relationship with both parents, father would have to “move” (make his own adjustments). Counsel argued that consideration be given to returning appellant to her mother. Appellant’s mother apparently lived in a more acceptable environment than her father.

The prosecutor replied that they were in a disposition hearing because appellant had absconded from her placement, had a dirty drug test, lied to police officers presumably because she was a runaway, and placement orders had already been made. The probation officer agreed with the prosecutor’s comments. The probation officer acknowledged that appellant’s mother was not contacted and thought it may have been because there was not current contact information for the mother. The probation officer did not believe that another 45-day commitment to juvenile hall was necessary.

The court noted that, even given the fact that appellant had left placement a couple of times, it seemed as though there were benefits to keeping appellant in placement. The court continued appellant as a ward of the court to be released to placement personnel upon completion of any time in juvenile hall, rather than released to her parents. The court ordered appellant’s removal from home and placement in a suitable out-of-home facility. Appellant was to be detained in juvenile hall pending placement. The court noted appellant’s maximum term of confinement was eight months with credits of 159 days.

LESS RESTRICTIVE PLACEMENT ALTERNATIVE

Appellant contends that the juvenile court abused its discretion at the disposition hearing by failing to consider her placement with her mother rather than an out-of-home placement. We disagree.

An appellate court may reverse a juvenile court's commitment order only upon a showing that the juvenile court abused its discretion. (*In re Robert H.* (2002) 96 Cal.App.4th 1317, 1329-1330 (*Robert H.*)) As long as the evidence demonstrates that the minor will benefit from the commitment and that less restrictive alternatives would be ineffective, a particular commitment order does not constitute an abuse of discretion. (See *In re Pedro M.* (2000) 81 Cal.App.4th 550, 555-556, disapproved on other grounds in *People v. Gonzales* (2013) 56 Cal.4th 353, 375, fn. 6.) Moreover, the juvenile court has full discretion in evaluating the credibility of the minor, probation officer recommendations, and other information presented during the proceedings. (*Robert H., supra*, 96 Cal.App.4th at p. 1329.) Thus, while the juvenile court law contemplates a progressively restrictive and punitive series of dispositions, no absolute rule requires that the juvenile court attempt a less restrictive placement before ordering a particular commitment. (§ 202, subd. (e); *In re Teofilio A.* (1989) 210 Cal.App.3d 571, 577 (*Teofilio A.*))

When reviewing the record, the appellate court indulges all reasonable inferences in support of the juvenile court's decision and does not disturb findings supported by substantial evidence. (*Robert H., supra*, 96 Cal.App.4th at p. 1330.) To determine if substantial evidence exists, the appellate court examines the record in light of the purposes of the juvenile court law, which include protecting the public and minor, preserving the minor's family ties, and removing the minor from his family only when necessary for his welfare or the public's safety. (§ 202, subd. (a); *In re Lorenza M.* (1989) 212 Cal.App.3d 49, 53.)

In addition, section 202 provides that minors in delinquency proceedings shall receive care, treatment, and guidance that is consistent with their best interests, holds them accountable for their behavior, and is appropriate given the circumstances. (§ 202, subd. (b).) Thus, the statute recognizes both punishment and rehabilitation as important tools and objectives. (*Teofilio A.*, *supra*, 210 Cal.App.3d at p. 576.)

In ordering disposition, the juvenile court must broadly consider the minor's age, the circumstances and gravity of the offense, the minor's delinquent history, and any other relevant information. (§ 725.5; *Robert H.*, *supra*, 96 Cal.App.4th at p. 1329.) The juvenile court need not specifically discuss each factor during the proceedings, and a record that indicates the court merely considered each factor is sufficient. (*In re John F.* (1983) 150 Cal.App.3d 182, 185.)

The juvenile court in the instant action considered placement of the minor with her mother because defense counsel argued this point. Although the probation officer did not expressly consider placement of the minor with her mother, the officer's report noted that the minor had only a marginal relationship with her parents. Furthermore, the minor had failed to complete two prior group home placements, the second because she absconded from the program. The minor's conduct was not being controlled by her father and she admittedly used drugs while on probation. Under the facts of the instant action, we do not find that the juvenile court abused its discretion in ordering appellant's placement out-of-home rather than with her mother.

DISPOSITION

The findings and orders of the juvenile court are affirmed.