

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 T.D., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

T.D.,

Defendant and Appellant.

F069960

(Super. Ct. No. 13CEJ600601)

**ORDER MODIFYING OPINION
NO CHANGE IN JUDGMENT**

THE COURT:

It is hereby ordered that the opinion filed herein on August 25, 2015, be modified as follows:

1. The second sentence in the first paragraph on page 2 should be changed to read:
 - “The juvenile court committed appellant to the Juvenile Justice Campus (JJC) for a period of 60 days, with 30 days of predisposition time credits.”
2. The term “DJJ” should be changed to “JJC” at the following locations in the opinion:
 - Page 2, second paragraph: “On appeal, appellant argues the juvenile court abused its discretion by committing him to JJC.”
 - Page 2, last paragraph: “Instead, the court imposed the probation department’s recommendation of a 60-day commitment to the JJC.”

- Page 3, first paragraph: “Appellant argues the juvenile court erred by committing him to the JJC.”
- Page 3, second paragraph: “We review a juvenile court’s decision to commit a minor to the JJC for an abuse of discretion.”
- Page 3, fourth paragraph: “Accordingly, it is reasonable to infer that appellant would benefit from being temporarily removed from his home and committed to the JJC.”
- Page 3, last paragraph: “Given the evidence in the record that appellant would benefit from commitment to the JJC and the trial court’s consideration of less restrictive alternatives, we find the court acted within its discretion when committing appellant to the JJC.”

Except for the modification set forth above, the opinion previously filed remains unchanged.

This modification does not effect a change in the judgment.

GOMES, Acting P.J.

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OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Timothy A. Kams, Judge.

Arthur Lee Bowie, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Catherine Chatman and Raymond L. Brosterhous III, for Plaintiff and Respondent.

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

INTRODUCTION

The juvenile court adjudged appellant a ward of the court (Welf. & Inst. Code, § 602) after appellant admitted the People's allegations that he had possessed marijuana for purposes of sale (Health & Saf. Code, § 11359) and had possessed live ammunition (Pen. Code, § 29650). The juvenile court committed appellant to the Department of Juvenile Justice ("DJJ") for a period of 60 days, with 30 days of predisposition time credits.

On appeal, appellant argues the juvenile court abused its discretion by committing him to the DJJ. We affirm.

FACTS

On July 11, 2013, a juvenile wardship petition was filed against appellant alleging the commission of second degree burglary (Pen. Code, § 459). Appellant admitted the allegation and was placed on deferred entry of judgment.

On June 24, 2014, police conducted a probation search of appellant's room and discovered two replica handguns that had been modified to resemble authentic firearms, live ammunition, brass knuckles, two plastic bags of marijuana, a briefcase containing marijuana, plastic bags, and cash, and a cabinet containing a scale, marijuana, and cash.

As a result of the search, a petition was filed against appellant alleging one count of possession of marijuana for purposes of sale, two counts of altering the appearance of an imitation firearm, one count of possession of metal knuckles, and one count of minor in possession of live ammunition. In exchange for the dismissal of the remaining allegations, appellant admitted to possession of marijuana for purposes of sale and possessing live ammunition.

At the disposition hearing on the admitted allegations, appellant requested electronic monitoring, but the juvenile court rejected the request. Instead, the court imposed the probation department's recommendation of a 60-day commitment to the DJJ. This appeal followed.

DISCUSSION

Appellant argues the juvenile court erred by committing him to the DJJ. Specifically, appellant claims the juvenile court's decision was retributive in nature, as it failed to consider less restrictive alternatives. We disagree.

We review a juvenile court's decision to commit a minor to the DJJ for an abuse of discretion. (*In re Michael D.* (1987) 188 Cal.App.3d 1392, 1395 (*Michael D.*)) A commitment is supported if there is "evidence in the record demonstrating probable benefit to the minor, and evidence supporting a determination that less restrictive alternatives are ineffective or inappropriate." (*In re Teofilio A.* (1989) 210 Cal.App.3d 571, 576.)

"In determining whether there was substantial evidence to support the commitment, we must examine the record presented at the disposition hearing in light of the purposes of the Juvenile Court Law." (*Michael D., supra*, 188 Cal.App.3d at p. 1395.) "[W]hen we assess the record in light of the purposes of the Juvenile Court Law [citation], we evaluate the exercise of discretion with punishment and public safety and protection in mind." (*In re Lorenza M.* (1989) 212 Cal.App.3d 49, 58.)

Here, the evidence shows appellant did not benefit from probation, and instead engaged in increasingly severe and sophisticated criminal activity. Accordingly, it is reasonable to infer that appellant would benefit from being temporarily removed from his home and committed to the DJJ. Further, the juvenile court found "there [had] been a failure or neglect for maintenance, training, [and] education" for appellant and explicitly considered and rejected the less restrictive alternatives of outright release or electronic monitoring.

Given the evidence in the record that appellant would benefit from commitment to the DJJ and the trial court's consideration of less restrictive alternatives, we find the court acted within its discretion when committing appellant to the DJJ.

DISPOSITION

The judgment is affirmed.