

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

FOURTH APPELLATE DISTRICT

DIVISION THREE

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

THE PEOPLE,

Plaintiff and Respondent,

v.

E.M.,

Defendant and Appellant.

G046055

(Super. Ct. No. DL039759)

O P I N I O N

Appeal from an order of the Superior Court of Orange County,  
Deborah J. Chuang, Judge. Affirmed.

Gregory Marshall, under appointment by the Court of Appeal, for  
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

\* \* \*

## 1. *Introduction*

The juvenile court adjudged E.M. to be a ward of the court under Welfare and Institutions Code section 602 and sustained the allegation charging him with carrying a dirk or dagger in violation of Penal Code former section 12020, subdivision (a)(4) (former section 12020(a)(4)). E.M. filed a notice of appeal from the dispositional order, and we appointed counsel to represent him.

Appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), setting forth the facts of the case and requesting that we review the entire record. Pursuant to *Anders v. California* (1967) 386 U.S. 738 (*Anders*), appointed counsel suggested we consider two issues, which we address in section 4. E.M. was given 30 days to file written arguments in his own behalf, but did not file anything.

We have examined the entire record and counsel's *Wende/Anders* brief. We looked for issues other than those raised by counsel, but after considering the entire record, we have found no reasonably arguable issue. (*Wende, supra*, 25 Cal.3d 436.) We therefore affirm.

## 2. *Procedural History*

In March 2011, a petition (the March Petition) to declare E.M. a ward of the court was filed. The March Petition alleged that in January 2011, E.M. unlawfully carried on his person a concealed dirk or dagger in violation of former section 12020(a)(4). In August 2011, another petition (the August Petition) to declare E.M. a ward of the court was filed. The August Petition alleged that in August 2011, E.M. unlawfully carried on his person a concealed dirk or dagger in violation of former section 12020(a)(4). E.M. admitted the allegation of the August Petition.

In September 2011, the juvenile court conducted a jurisdictional hearing on the March Petition. Following the hearing, the court made a jurisdictional order finding the allegation of the March Petition to be true beyond a reasonable doubt and treating the

charged offense as a misdemeanor. At the dispositional hearing, the court made a dispositional order declaring E.M. to be a ward of the court pursuant to Welfare and Institutions Code section 602 and placing him in the custody of the probation department for commitment to juvenile hall for 45 days, with credit for 24 days previously served.

### 3. *Facts*

On January 21, 2011, Orange County Sheriff's Deputy William West was dispatched to an apartment building in Stanton because a report had been made that someone was writing graffiti on an apartment door. In the courtyard of the apartment building, West saw E.M. and another juvenile, who was arguing with a man. West approached and asked which one of the three was E.M. Turning toward West, E.M. yelled, "I am. Why?" West asked E.M. to put his hands up. Disobeying West, E.M. turned, reached into the waistband of his trousers, and tossed to the ground a fixed-blade knife with a blade of about four inches in length.

West arrested E.M. and took him to the sheriff's substation in Stanton. After advising E.M. of his rights pursuant to *Miranda v. Arizona* (1966) 384 U.S. 436, West asked him if he wanted to speak about the incident. E.M. responded "yes," and said he had the knife for protection because he had been jumped recently by gang members.

### 4. *Analysis of Suggested Issues in Counsel's Wende/Anders Brief*

Appointed counsel suggests two potential issues: (1) "Was there sufficient evidence to prove the knife [E.M.] possessed satisfied the statutory definition?" and (2) "Did the prosecution violate its duty under *Brady v. Maryland* (1963) 373 U.S. 83 . . . to disclose to the defense information within its custody or control which was material to, and exculpatory of, the defendant?" We conclude neither potential issue has merit.

Former section 12020(a)(4) made it unlawful to carry a dirk or dagger concealed on one's person. Penal Code former section 12020, subdivision (c)(24) defined a dirk or a dagger as "a knife or other instrument with or without a handguard

that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.” The evidence was sufficient to establish the knife carried by E.M. met that definition. West testified the knife had a four-inch fixed blade that was “somewhat like a steak knife” and was of a type that could cause great bodily injury or death. Before tossing the knife to the ground, E.M. had it concealed in the waistband of his trousers.

*Brady v. Maryland* (1963) 373 U.S. 83, 87 held “the suppression by the prosecution of evidence favorable to an accused . . . violates due process where the evidence is material either to guilt or to punishment.” At trial, E.M.’s counsel asserted that counsel for the People violated *Brady v. Maryland* by failing to turn over an audio recording of E.M.’s interview at the sheriff’s substation. The juvenile court found “there has not been a discovery violation as it appears that there is no audio recording to be produced.” Substantial evidence supported that finding: Testimony established E.M.’s interview at the sheriff’s substation was not recorded. Our review of the record has not disclosed any other potentially exculpatory evidence that was suppressed by counsel for the People.

##### 5. *Disposition*

The dispositional order is affirmed.

FYBEL, J.

WE CONCUR:

MOORE, ACTING P. J.

ARONSON, J.