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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

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

H041379
(Santa Clara County
Super. Ct. No. 311JV38000H)

THE PEOPLE,

Plaintiff and Respondent,

v.

C.B.,

Defendant and Appellant.

The Santa Clara County Probation Department (the Probation Department) filed a petition on January 23, 2014 (Petition H), alleging that C.B., a minor (16 years old at the time of the petition's filing), who was previously adjudicated to be a ward of the court under the provisions of Welfare and Institutions Code section 602, had violated the terms of his probation (Welf. & Inst. Code, § 777). The minor admitted the allegations of the petition. On June 23, 2014, the court ordered the minor continued as a ward of the court and committed him to the California Department of Corrections and Rehabilitation, Division of Juvenile Justice (CDCR, DJJ).

On appeal, appointed counsel has filed an opening brief that states the case and facts but raises no issues on appeal. We have independently reviewed the record. Based upon that review, we will affirm the court's dispositional order.

FACTUAL AND PROCEDURAL BACKGROUND

I. Prior Petitions

The Santa Clara County District Attorney's Office (District Attorney) filed Petition A on January 26, 2011, alleging, among other charges, that the minor engaged in conduct that, if committed by an adult, would constitute the following felonies: assault with a deadly weapon or instrument other than a firearm (Pen. Code, § 245, subd. (a)(1));¹ attempted first-degree burglary (§§ 459, 460, subd. (a)/ § 664); and grand theft (§§ 484, 487, subd. (a)). The assault charge arose out of a January 2011 incident in which the minor threw a rock at a teacher at school. The attempted burglary and theft charges arose out of an October 2010 incident in which the minor and his coparticipants entered into a victim's backyard and stole marijuana plants valued at \$4,000. In March 2011, the minor admitted the allegations of Petition A. The court sustained the petition; declared the minor a ward of the court; ordered the minor to complete 45 days on the Electronic Monitoring Program (EMP); and ordered him to perform community service.

The District Attorney alleged in Petition B, filed on September 19, 2011, that the minor engaged in conduct that, if committed by an adult, would constitute the following misdemeanors: vandalism (§ 594, subds. (a), (b)(2)(A)); and two counts of petty theft (§§ 484, 488). The vandalism charge arose out of an incident in September 2011 in which the minor slashed the left front tire of a vehicle. The theft charges arose out of separate incidents in September 2011 in which the minor stole items from an Orchard Supply Hardware store and a Macy's department store. In November 2011, the minor admitted the allegations of Petition B. The court sustained the petition. It ordered the minor to remain a ward of the court; to complete 60 days on EMP; and to perform community service.

¹ All further statutory references are to the Penal Code unless otherwise stated.

The Probation Department alleged in Petition C, filed on December 6, 2011, that the minor violated the conditions of his probation (Welf. & Inst. Code, § 777) by absconding from probation supervision while on EMP. In February 2012, the minor admitted the probation violations and the court sustained the petition.

The District Attorney alleged in Petition D, filed on March 14, 2012, that the minor had engaged in conduct that, if committed by an adult, would constitute misdemeanor battery (§§ 242, 243, subd. (a)). The charge arose out of an incident occurring in February 2012 in which the minor “initiated an unprovoked and unwarranted assault of a fellow [Juvenile Hall] resident [in which t]he minor repeatedly punched the victim in the head, refused commands to stop, and resisted Juvenile Hall staff⁽¹⁾s attempt to restrain him.” The minor admitted the allegations of the petition. As a result of the sustaining of Petitions C and D, the court committed the minor to Juvenile Hall for 30 days and ordered the minor to complete 60 days on EMP.

The Probation Department alleged in Petition E, filed on May 10, 2012, that the minor had violated the terms of his probation (Welf. & Inst. Code, § 777), based upon his failure on EMP and because he absconded from probation supervision.

The District Attorney alleged in Petition F, filed on May 31, 2012, that the minor had engaged in conduct that, if committed by an adult, would constitute second-degree robbery, a felony (§§ 211, 212.5, subd. (c)); and misdemeanor battery (§§ 242, 243, subd. (a)). The robbery charge arose out of an incident occurring in May 2012 in which the minor and coparticipants stole several items from a Rite-Aid store. The battery charge arose out of an incident the same month in which the minor and coparticipants challenged the victim to a fight, a coparticipant threw a rock at the victim, and the minor and coparticipants assaulted the victim.

Petitions E and F were heard together in a jurisdictional hearing. The minor admitted the probation violations in Petition E and the battery allegations in Petition F, but denied the robbery allegations in Petition F. After a contested hearing, the court

found the robbery allegations true. At the disposition hearing on July 9, 2012, the juvenile court continued the minor as a ward of the court and committed the minor to the Enhanced Ranch Program (the Ranch) for six to eight months.

Petition G filed on February 14, 2013, alleged that the minor had engaged in conduct that, if committed by an adult, would constitute second-degree robbery, a felony (§§ 211, 212.5, subd. (c)). The charge arose out of a February 2 incident in which the minor, while on furlough from the Ranch, held a knife to the throat of another juvenile and took marijuana, cash, and a pocketknife from the victim. The allegations were sustained at a contested hearing on May 2, 2013. The court determined the minor's maximum period of confinement to be nine years, three months, and it committed the minor to the Ranch for 12 months.

II. Current Petition

On January 23, 2014, the Probation Department filed Petition H, alleging that the minor had violated the terms of his probation (Welf. & Inst. Code, § 777) based upon his failure to complete the Ranch program when he failed to return to the Ranch from a weekend furlough on January 19, 2014. An arrest warrant was issued the following day. When the minor was apprehended on February 3, he was found to be in possession of a knife with a blade of approximately three inches. The minor admitted the allegations of the petition at the April 3, 2014 pretrial hearing.

At the June 23, 2014 disposition hearing, the court heard testimony from the minor and Carmen Murray, his probation officer. The minor submitted a packet that included school transcripts and a lengthy letter he wrote to the court explaining his progress in school and the reasons he felt local placement at the Ranch was appropriate. The minor testified that he had been taking a medication called Concerta for two or three months for his ADHD and was feeling better. He stated he could think more clearly, was more calm, and was able to better control his impulsive behavior. The minor testified that he had done extra coursework in school and anticipated graduating two years early. He also

testified that he had participated in a California Youth Outreach program to help him avoid activity with gangs.

On cross-examination, the minor testified that he had originally been in favor of placement in an out-of-state facility, but had since changed his mind, feeling it would not help him because he needed to work on issues with his family. The minor testified that he did not take his OTs (Out-Times), or furloughs from the Ranch, seriously and spent his time “chill[ing]” with his friends rather than returning when required. He also received a number of telephone calls from his mother asking him to return to the Ranch. The minor denied being affiliated with any gang.

Probation Officer Murray testified that the proposed return by the minor to the Ranch was not a suitable placement because he had “completed all the programs, and we’re kind of in the same position where we were before.” It was her opinion that the minor had been fortunate that, after the sustaining of Petition G (involving robbery using a knife), he was committed to the Ranch, rather than an alternative placement through the CDCR, DJJ (DJJ Alternative Placement). She also testified that the minor belonged to or was affiliated with Varrio Azteca Norteño (VAN), and he had been involved in several fights at the Ranch with rival or other gang members. The minor admitted to Murray in one of their first meetings that he was affiliated with VAN and that his fellow gang members called him Little Man.

Murray testified further that the minor refused to discuss the DJJ Alternative Program with placement officers and was very rude toward the placement supervisor. Murray indicated that after doing some research, she was impressed with the programs offered through the DJJ Alternative Program—such as anger management and family dynamics classes, job training, and reentry classes—and she believed the minor could benefit from them. She also testified that counseling done for juveniles placed with the DJJ Alternative Program is performed by trained counselors, whereas counseling at the Ranch is done by staff who are not trained counselors.

After hearing argument, the court, adopting the recommendations of the Probation Department, ordered the minor continued as a ward of the court and committed him to the CDCR, DJJ Alternative Program. It made a specific finding that the minor's needs could not be met through another commitment at the Ranch. The court adjudged the maximum time of confinement to be nine years, eleven months, but exercised its discretion (Welf. & Inst. Code, § 731, subd. (c)) to reduce the maximum time period to five years, six months.

DISCUSSION

We appointed counsel to represent the minor in this court. Appointed counsel filed an opening brief which stated the case and the facts but raised no specific issues. We notified the minor of his right to submit written argument on his own behalf within 30 days. We have received no written argument from the minor.

We have independently reviewed the entire record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 and *In re Kevin S.* (2003) 113 Cal.App.4th 97. Based upon that review, we have concluded there is no arguable issue on appeal.

DISPOSITION

The dispositional order of June 23, 2014 is affirmed.

Márquez, J.

WE CONCUR:

Bamattre-Manoukian, Acting P.J.

Mihara, J.