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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re Eduardo H., a Person Coming Under the Juvenile Court Law.	
THE PEOPLE, Plaintiff and Respondent, v. Eduardo H., Defendant and Appellant.	A127496 (Sonoma County Super. Ct. No. 35699)

Appellant Eduardo H. appeals from the jurisdictional and dispositional orders denying his request for deferred entry of judgment and declaring him a ward of the court. Appellant's counsel raises no issues and asks this court to conduct an independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

BACKGROUND

The petition filed in the Sonoma County Juvenile Court alleged that appellant committed two felonies: receiving a stolen motor vehicle with gang enhancement (Pen. Code, §§ 496d, subd. (a); 186.22, subd. (b)(1)(A)), and participation in a criminal street gang (Pen. Code, § 186.22, subd. (a)); and one misdemeanor: unlawful possession of tear gas (Pen Code, § 12403.7, subd. (d)). (Welf. & Inst. Code, § 602, subd. (a).)[1] At his jurisdictional hearing, appellant admitted each allegation. Appellant requested a deferred

[1] All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

entry of judgment (DEJ) at his dispositional hearing. The court denied appellant's request and declared him a ward of the court, placing him in the custody of his parents. This timely appeal followed.

On December 3, 2009, a Sebastopol police officer found appellant inside a stolen car along with three juvenile passengers. All four passengers were wearing dark blue or black clothing, including black gloves, beanies, and ski masks. Police officers inspecting the car found a can of pepper spray near appellant, a knife in the middle console, a knife on one passenger's person, and metal knuckles. The officers also found containers of marijuana in the car and in a passenger's possession.

Appellant told the officers he " 'kicks it' " with Sureno gang members and knew that two of his fellow passengers were Surenos. These two passengers were both wearing dark blue and gray flannel shirts. A subsequent search of the gang members' home revealed Sureno gang paraphernalia, gang clothing, spray paint cans, a saw without a handle, and a Canon digital camera. The officers later confirmed the camera belonged to the owner of the stolen car. In the car, the officers found a cellular telephone with an image of a blue bandana and the phrase "SUR" on its screen.

Initially, appellant told the officers he did not know the car was stolen. He later admitted his fellow passengers had told him they " 'jacked' " the car. Appellant stated the passengers told him about their plans to " 'do some shit,' " which he interpreted to mean vandalism. When asked about his ski mask, appellant stated he had found it in the car. Appellant admitted to possession of the pepper spray.

Appellant had one prior referral to the juvenile court for stealing a laptop computer from a residence. The court declared appellant a ward and ordered him to complete community service hours, Project YES, and the Men of Strength program. Appellant violated his probation by associating with gang members, but he ultimately completed Project YES and the Men of Strength program. The court dismissed appellant's delinquency proceedings.

At his jurisdictional hearing, appellant admitted all the allegations against him, each of which had a factual basis. The court found appellant was 16 years of age at the

time of his offense. The prosecuting attorney declared appellant was eligible for DEJ. The court ordered the probation department to prepare a report on appellant's suitability for DEJ and ordered that appellant be released to his parents on level one community detention.

The court considered the probation officer's report and recommendation for wardship during appellant's dispositional hearing. Ultimately, the court rejected appellant's request for DEJ and declared him a ward of the court. The court based its disposition on appellant's increasing gang involvement, shown by his Sureno tattoo and his statement that he was putting in time for the gang, as well as the court's concern about appellant's ability to benefit from DEJ. The court placed appellant in the custody of his parents and imposed several probation and gang conditions. These conditions included community service, registration as a gang member, restitution to the victim, and prohibited association with gang members.

DISCUSSION

There is no arguable issue regarding the juvenile court's jurisdiction over appellant. Appellant affirmed that he understood the nature of the allegations against him and the consequences of admission. The court found appellant was 16 years of age at the time of his offense. He qualified as a "person" under section 602, and his admissions to all allegations waived the need for any further jurisdictional hearing. (§ 602.)

The trial court did not abuse its discretion in denying DEJ and declaring appellant a ward of the court. The trial court is permitted to grant DEJ to an eligible minor but retains ultimate discretion in deciding whether to do so. (§ 602, subd. (a); *In re Sergio R.* (2003) 106 Cal.App.4th 597, 603.) Even if the prosecuting attorney finds the minor eligible for DEJ and the probation department finds the minor suitable, the court's disposition is based on its independent determination. (Cal. Rules of Court, rule 5.800; *In re Sergio R.*, *supra*, at p. 604.) The court may decline to grant DEJ only if it determines the minor would not benefit from the "education, treatment, and rehabilitation" of the DEJ program. (§ 791, subd. (b); *Martha C. v. Superior Court* (2003) 108 Cal.App.4th 556, 561.)

During appellant's dispositional hearing the court considered his eligibility for DEJ and the probation department's report and recommendation. (Cal. Rules of Court, rule 5.800.) The court was permitted to declare appellant a ward upon finding that he qualified as a person under section 602. (§ 602, subd. (a).) Noting that appellant completed Project YES and the Men of Strength program, the court went on to state its concern regarding his ability to benefit from DEJ. The court cited his escalating gang involvement and his prior probation violation.

We find no abuse of discretion in the court's placement of appellant in the custody of his parents or in the probation and gang conditions imposed on appellant. The trial court had broad discretion to make "any and all reasonable orders" concerning appellant's "care, supervision, custody, conduct, maintenance, and support." (§ 727, subd. (a).) In addition, the court exercised its broad discretion to impose conditions of probation that were "fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced." (§ 730, subd. (b).)

Finally, the court applied a rational method to determine the amount of restitution awarded to the victim. (*In re Dina V.* (2007) 151 Cal.App.4th 486, 489.) It is immaterial whether appellant was immediately responsible for the victim's loss since the relevant point is that the restitution order was reasonably related to his conduct. (*In re I.M.* (2005) 125 Cal.App.4th 1195, 1209.)

Appellant received fair jurisdictional and dispositional hearings. He was represented by counsel and was advised of his constitutional rights, which he voluntarily waived before admitting to the allegations against him. Our independent review of the record reveals no arguable issues regarding the court's jurisdiction, nor do we find that the court abused its discretion by rejecting appellant's request for deferred entry of judgment and declaring him a ward.

DISPOSITION

Accordingly, the judgment is affirmed.

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Lambden, J.

We concur:

_____
Haerle, Acting P.J.

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Richman, J.