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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

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

2d Juv. No. B280685
(Super. Ct. No. 15JV-00190)
(San Luis Obispo County)

THE PEOPLE,

Plaintiff and Respondent,

v.

R.M.,

Defendant and Appellant.

R.M. appeals a juvenile court disposition order declaring him a continuing ward and committing him to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities (DJF), for a maximum term of confinement of 11 years. (Welf. & Inst. Code, §§ 602, 202, subd. (e)(5).) We decide that the court did not abuse its discretion by imposing the DJF commitment, and affirm.

FACTUAL AND PROCEDURAL HISTORY

On March 17, 2013, 14-year-old R.M. accompanied his father, his grandfather, and eight other adults to the “Jane Doe” residence on Donovan Street in Santa Maria. The adults accompanying R.M. were members of the Sureño criminal street gang. R.M.’s father directed Jane Doe to contact Anthony Ibarra and entice him to the home. Jane Doe then telephoned Ibarra with the pretense of purchasing methamphetamine. When Ibarra arrived, the gang members forced him into a bedroom where he was tortured and killed. Prior to Ibarra’s arrival and murder, R.M. and an adult left the residence. When they returned later, Ibarra was dead. R.M. asked to view the body, but his father refused his request.

Ibarra died from multiple stab wounds inflicted with a knife and a screwdriver, including a fatal wound severing his jugular vein. Gang members placed Ibarra’s body in a U-Haul trailer and parked the trailer on a Santa Maria street.

On January 2, 2015, the Santa Barbara County prosecutor filed a juvenile wardship petition alleging that R.M. committed burglary by entering the Donovan Street residence with the intent to commit a felony therein. (Pen. Code, § 459.)¹ The petition also alleged that R.M. committed the crime to benefit the Sureño criminal street gang.² (§ 186.22, subd. (b)(1).)

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

² The prosecutor charged R.M.’s father, grandfather, and the other adult participants with murder. Four defendants pleaded guilty prior to trial and received prison sentences. Following a jury trial, R.M.’s father, grandfather, and three other defendants were convicted of murder. Their appeals are pending in this court.

On January 5, 2015, R.M. waived his constitutional rights and admitted the allegations in the wardship petition. The juvenile court then declared him a ward of the court and placed him on probation with terms and conditions including 180 days of confinement in Los Prietos Boys camp. Prior to accepting R.M.'s admissions, the court warned him that a violation of the terms and conditions of his probation might result in a DJF commitment. Later, at the probation officer's request, the court transferred R.M.'s case to San Luis Obispo County based upon R.M.'s residence.

On September 12, 2016, Santa Maria police officers arrested R.M. for assault with a deadly weapon, battery likely to cause great bodily injury, and possession of metal knuckles. (§§ 245, subd. (a)(1), 243, subd. (d), 21810.) At the time of his detention by police officers, R.M. sat in the backseat of a vehicle occupied by four gang members. R.M. had bloodstains on his shirt and metal knuckles lay on the floorboard of the backseat.

On September 26, 2016, the San Luis Obispo County Probation Department filed a notice of probation violation based upon R.M.'s latest arrest. The notice alleged that R.M. failed to timely report his arrest to his probation officer; he had received a recent gang tattoo ("Projects"), a reference to the North West street gang; and he had been detained in the company of four North West gang members. On November 1, 2016, R.M. waived his constitutional rights and admitted the charged probation violations.

The November 15, 2016, disposition report stated that R.M. had received "graduated sanctions" of home restriction. An earlier progress memorandum also stated that R.M. had received mental health counseling as a graduated sanction. A

supplemental disposition report dated November 29, 2016, but not the initial disposition report, recommended that the juvenile court commit R.M. to DJF.

On January 10, 2017, the juvenile court held a contested disposition hearing. R.M. stated that he had been released from custody because the recent charges had been dismissed. The prosecutor confirmed that the charges had been dismissed without prejudice, but that the dismissal was "not based on the state of the evidence."

At the disposition hearing, R.M. testified that on September 12, 2016, he attended a memorial service for a deceased friend. Outside the home where the gathering occurred, he saw an acquaintance, Issac Zepeda, who was battered and bleeding. Zepeda requested medical assistance and other persons volunteered to drive him to a hospital. R.M. stated that his clothing became bloodstained when he placed Zepeda inside the vehicle.

R.M. also admitted that although he did not possess a driver's license, he had been involved in a minor traffic collision in November 2016. He testified that he left the scene of the collision because the other driver also left the scene.

The juvenile court judge stated that she had reviewed R.M.'s file and that he had been an exemplary student while in juvenile custody but that he had a gang moniker ("Lil Crazy Ray N.W.") and that he threatened to stab a person who had taken his cellular telephone. The judge stated that R.M.'s "periods of exemplary behavior" "tend[] to be when he's in custody." The court then committed R.M. to DJF and set his maximum time in custody as 11 years. The judge commented that R.M. made choices showing his "affiliation to North West going forward in a

way that this court cannot discount." The court also awarded R.M. 856 days of custody credit.

R.M. appeals and contends that the juvenile court abused its discretion by "[b]lindly following" the supplemental disposition report and committing him to DJF.

*DISCUSSION*³

R.M. argues that he was improperly committed to DJF for purposes other than rehabilitation. He asserts that the juvenile court did not consider less restrictive alternatives, pointing out that his counsel argued against a DJF commitment. R.M. also points out that the juvenile court judge commented that the initial and supplemental disposition reports were less than detailed. R.M. adds that he graduated from high school and was employed full time.

Pursuant to section 734, "No ward of the juvenile court shall be committed to the [DJF] unless the judge of the court is fully satisfied that the mental and physical condition and qualifications of the ward are such as to render it probable that he will be benefited by the reformatory educational discipline or other treatment provided by the [DJF]." In determining an appropriate disposition, the court is required to consider the probation officer's social study and, specifically, the age of the minor; the circumstances and gravity of the offense committed by the minor; and the minor's prior delinquency. (§§ 706, 725.5; *In re Greg F.* (2012) 55 Cal.4th 393, 404.)

We review a commitment decision for an abuse of discretion, drawing all reasonable inferences in favor of the juvenile court's order. (*In re Edward C.* (2014) 223 Cal.App.4th

³ All statutory references in this portion of the opinion are to the Welfare and Institutions Code.

813, 829.) We do not reweigh the evidence or reassess witness credibility; neither do we resolve conflicts in the evidence. (*Ibid.*) A DJF commitment is not an abuse of discretion where the evidence demonstrates a probable benefit to the minor from the commitment and that less restrictive alternatives would be ineffective or inappropriate. (*Ibid.*) The juvenile court abuses its discretion, however, where its factual findings are not supported by sufficient evidence. (*In re Khalid B.* (2015) 233 Cal.App.4th 1285, 1288.)

The juvenile court did not abuse its discretion by committing R.M. to the DJF. R.M. continued to associate with criminal street gang members; he had a recent gang tattoo and was arrested in the company of other gang members. He had received graduated sanctions of Los Prietos Boys Camp, juvenile hall, home restriction, and mental health counseling over the course of four years. Although he had graduated from high school early with high marks, the court noted that his exemplary behavior tended to occur when he was in custody.

A DJF commitment is not necessarily contrary to a minor's welfare. (*In re Greg F., supra*, 55 Cal.4th 393, 417.) The juvenile court here reasonably decided that R.M. may best be served by the structured environment of DJF and the special programs available there, including a gang intervention program. (*Ibid.*)

Moreover, the juvenile court was not required to expressly state on the record its reasons for rejecting less restrictive placements. (*In re Nicole H.* (2016) 244 Cal.App.4th 1150, 1159.) The disposition reports sufficiently described R.M.'s prior placements, graduated sanctions, and probation violations. The juvenile court, not the probation officer, determines the

appropriate disposition. (§ 706.) Here the probation social study reports sufficiently and adequately discussed the factors pertinent to an informed disposition. We conclude that sufficient evidence supports the court's disposition order.

The order is affirmed.

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GILBERT, P. J.

We concur:

YEGAN, J.

TANGEMAN, J.

Linda D. Hurst, Judge

Superior Court County of San Luis Obispo

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Appeal, for Defendant and Appellant.

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