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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

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

B288321

(Los Angeles County
Super. Ct. No. YJ39190)

THE PEOPLE,

Plaintiff and Respondent,

v.

T.M.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County. Irma J. Brown, Judge. Affirmed.

Lynette Gladd Moore, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Steven D. Matthews, Supervising Deputy Attorney General, and Analee J. Brodie, Deputy Attorney General, for Plaintiff and Respondent.

* * * * *

After a juvenile was adjudicated liable for one crime and pled to two others, the juvenile court ordered him into the camp community placement program. The court correctly calculated the maximum period of confinement to be five years and eight months in the minute order but misstated the maximum period as six years when orally explaining the disposition. The juvenile appeals. Because the juvenile court's minute order is correct and because the maximum period of confinement need not be stated orally (Welf. & Inst. Code, § 731, subd. (c);¹ *In re Julian R.* (2009) 47 Cal.4th 487, 496-498 (*Julian R.*)), any remand to correct the juvenile court's superfluous oral misstatement would be an idle act. Accordingly, we affirm.

FACTS AND PROCEDURAL BACKGROUND

T.M. was born in May 2002. In May 2017, just after his 15th birthday, he was arrested for receiving a stolen 2007 Toyota Prius and resisting, delaying, or obstructing a police officer after attempting to burglarize a Nissan Altima. While those matters were pending, T.M. and five others approached a pizza delivery man, demanding (and obtaining) a pizza and the \$55 in cash he was carrying.

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

The People charged T.M. for these acts (and others) in three separate petitions to declare T.M. a “ward” within the meaning of section 602.²

Following a trial in December 2017, the juvenile court found true the allegation that T.M. had engaged in felony robbery (Pen. Code, § 211) of the pizza delivery man. The next day, T.M. admitted a misdemeanor count of receiving stolen property (*id.*, § 496, subd. (a)) and the misdemeanor count of resisting arrest (*id.*, § 148, subd. (a)).³

At the February 2018 dispositional hearing, the juvenile court declared T.M. to be a “ward” of the court and placed him in camp community placement for a term of five to seven months. The minute order stated that the maximum period of physical confinement for T.M. was “5 years 8 months,” and explicitly set forth how it calculated this figure—namely, a maximum of five years for the felony robbery count and four months for each of the two misdemeanors. However, at the dispositional hearing itself, the juvenile court orally stated that the “maximum confinement”

² The People alleged additional crimes in a fourth petition that was dismissed.

³ The petition alleging the receipt of stolen property also alleged that T.M. had engaged in attempted second degree burglary (Pen. Code, §§ 459, 664) and damaging or tampering with a vehicle or its contents (Veh. Code, § 10852). The petition alleging the receipt of stolen property also alleged a second degree commercial burglary (Pen. Code, § 459) and damaging or tampering with a vehicle or its contents (Veh. Code, § 10852). That petition had originally alleged the receipt of stolen property as a felony. Prior to T.M.’s pleas, the People moved to reduce the receipt of stolen property offense from a felony to a misdemeanor. After T.M.’s pleas, the juvenile court dismissed all remaining counts.

was “a total of six years” calculated as “five years on the [robbery count],” “eight months on the [receipt of stolen property count], the misdemeanor,” and “four months on the [resisting arrest count].”

T.M. filed a timely notice of appeal.

DISCUSSION

Because it is undisputed that the maximum period of confinement for T.M. based on the allegations found or admitted to be true is five years and eight months (§ 726, subd. (d) [looking to Penal Code section 1170.1 regarding how to aggregate the maximum sentences for multiple crimes]; Pen. Code, § 1170.1, subd. (a) [dictating that maximum sentences be added together]; *In re Eric J.* (1979) 25 Cal.3d 522, 536-538 [holding that juvenile courts must use one-third of the maximum sentence for misdemeanors]), the sole issue on appeal is whether the juvenile court’s oral misstatement of the maximum period of confinement warrants a remand when the court’s minute order correctly states the maximum period.

We conclude that no remand is warranted. Our Supreme Court has prescribed a two-step approach when trying to reconcile a trial or juvenile court’s conflicting statements: (1) try to harmonize the statements and, if that is not possible, (2) after looking to “the circumstances of each particular case,” give effect to the statement “which, because of its origin and nature or otherwise, is entitled to greater credence.” (*People v. Smith* (1983) 33 Cal.3d 596, 599, quoting *In re Evans* (1945) 70 Cal.App.2d 213, 216; *People v. Harrison* (2005) 35 Cal.4th 208, 226.) It is impossible to harmonize the juvenile court’s inconsistent calculations of the maximum period of confinement, so we must determine which statement—the court’s oral statement during the dispositional hearing or its minute order—is “entitled to greater credence.” We conclude that the court’s

minute order is entitled to greater credence. Our Supreme Court has specifically rejected the argument that the maximum period of confinement must be orally pronounced at the disposition hearing (*Julian R.*, *supra*, 47 Cal.4th at pp. 497-498), rendering any such pronouncement optional (and hence superfluous) and entitling the minute order to greater credence. (Cf. *People v. Mesa* (1975) 14 Cal.3d 466, 471 [oral pronouncement of sentence in adult criminal case controls over conflicting written order because oral pronouncement is required and “constitutes the rendition of judgment”].) Further, a remand to require the juvenile court to orally state the proper maximum period would accomplish nothing because the maximum period is already correctly stated in the minute order. Remands to perform idle acts are strongly disfavored. (E.g., *In re Vincent S.* (2001) 92 Cal.App.4th 1090, 1093.)

DISPOSITION

The judgment is affirmed.

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_____, J.
HOFFSTADT

We concur:

_____, P. J.
LUI

_____, J.
ASHMANN-GERST