

Filed 2/26/18 In re V.H. CA2/5

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re V.H., a Person Coming  
Under the Juvenile Court Law.

B283225

(Los Angeles County  
Super. Ct. No. MJ23701)

THE PEOPLE OF THE STATE  
OF CALIFORNIA,

Plaintiff and Respondent,

v.

V.H.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of  
Los Angeles County, Denise McLaughlin-Bennett, Judge.  
Affirmed.

Courtney M. Selan, under appointment by the Court  
of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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## I. INTRODUCTION

V. H., a minor, was charged with violation of Penal Code section 243.6, misdemeanor battery against a school employee. The juvenile court sustained the charge and placed the minor on six months probation pursuant to Welfare and Institutions Code<sup>1</sup> section 725, subdivision (a). The minor's appointed counsel filed a brief in which no issues were raised pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441-442. We affirm the judgment.

## II. BACKGROUND

On July 19, 2016, the Los Angeles County District Attorney's Office filed a section 602<sup>2</sup> petition alleging that on or about May 18, 2016<sup>3</sup>, the minor violated Penal Code section 243.6. The section 602 petition alleged the minor committed battery on Darlene White, a school employee

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<sup>1</sup> Further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

<sup>2</sup> Generally, any person under 18 years of age who commits a crime is within the jurisdiction of the juvenile court. (§ 602.)

<sup>3</sup> The allegation was amended to indicate the incident occurred on May 16, 2016.

engaged in the performance of her duty. At the February 6, 2017 arraignment, the minor denied the allegations.

On May 9, 2017, an adjudication and disposition hearing was held before the juvenile court. White testified that on May 16, 2016, she was a middle school teacher at Piute Middle School in Lancaster, California. That day, White's class, which included the minor, was not behaving well. White followed her class policy that on such days, she would dismiss each student individually.

The minor did not wait her turn and instead got up and walked to where White was standing by the classroom door. White asked the minor to return to her assigned seat, but the minor refused. The minor kept moving towards White and the door. Once she reached the door, the minor placed her own hands on the hands and wrist of White, who had been holding the door handle to the class, and proceeded to press down on White's hands. The minor was attempting to open the classroom door and leave.

The minor told White that she was not going to listen to her. The minor elbowed White out of the way so she could get out of the classroom. As the minor left, White flagged down the principal. White suffered some pain, temporary red marks and swelling from the incident.

After the minor was suspended from school, Deputy Sheriff Jorge Zavala of the Los Angeles County Sheriff's Department investigated the incident. When Officer Zavala arrived at the minor's home, he was dressed as a police officer, including a full utility belt with his baton and firearm. Officer Zavala knew the minor was under 14

years of age at the time of the interview.<sup>4</sup> Officer Zavala asked the minor questions to elicit whether she knew right from wrong at the time of the incident. Officer Zavala asked these questions without administering any warnings that may have been due under *Miranda v. Arizona* (1966) 384 U.S. 436 (*Miranda*). During this questioning, the minor stated she knew right from wrong. She stated it was wrong to hit a teacher.

The minor's father also testified. Father indicated that the minor knew right from wrong. Father testified the minor knew not to put hands on someone or push others, and knew that there would be consequences if she did something wrong.

The minor's counsel moved to strike any statements made by the minor when Officer Zavala interviewed her, arguing that the questioning occurred while Officer Zavala had custody over the minor and without a prior *Miranda* warning being issued. The prosecutor argued the minor had not been in custody. The juvenile court found no grounds to strike the minor's statements to Officer Zavala. Even if there were grounds, the court found sufficient evidence existed independent of the minor's statements that the minor knew the wrongfulness of her conduct.

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<sup>4</sup> Penal Code section 26 provides in pertinent part: "All persons are capable of committing crimes except those belonging to the following classes: [¶] One—Children under the age of 14, in the absence of clear proof that at the time of committing the act charged against them, they knew its wrongfulness." (*In re Gladys R.* (1970) 1 Cal.3d 855, 862.)

The court sustained the section 602 petition. The juvenile court placed the minor on six months probation pursuant to section 725, subdivision (a). The minor was also ordered to: perform 8 hours of community service; pay a \$50 restitution fine; not contact White; attend anger management counseling; and write a letter of apology.

### **III. DISCUSSION**

On December 15, 2017, the minor's appointed counsel filed a brief pursuant to *People v. Wende, supra*, asserting that there were no arguable issues on appeal and requesting this court independently review the entire record. On December 29, 2017, we issued a letter informing the minor she had 30 days by which to submit by brief any grounds of appeal, contentions, or argument that she wished this court to consider. V.H. did not file any response. We have carefully reviewed the entire record and find no arguable issues on appeal.

#### IV. DISPOSITION

The judgment is affirmed.

KIM, J.\*

We concur:

KRIEGLER, Acting P.J.

BAKER, J.

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.