Filed 5/7/18 In re C.M. CA1/3

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re C.M., a Person Coming Under the Juvenile Court Law. _____ THE PEOPLE, Plaintiff and Respondent, v. C.M., Defendant and Appellant.	B281389 (Los Angeles County Super. Ct. No. KJ39942)

APPEAL from an order of the Superior Court of Los Angeles County, Geanene M. Garcia-Yriarte, Judge. Affirmed.

Holly Jackson, 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, Assistant Attorney General, Susan Sullivan Pithey and Michael J. Wise, Deputy Attorneys General, for Plaintiff and Respondent.

C.M., a minor, appeals from the order of wardship (Welf. & Inst. Code, § 602)[1] entered after the juvenile court found he possessed a box cutter on school grounds in violation of Penal Code section 626.10, subdivision (a)(2). C.M. contends the court abused its discretion by denying his motion to dismiss the juvenile petition pursuant to section 782, and by denying his request that he be placed on nonwardship probation pursuant to section 725. Discerning no abuse of discretion, we affirm the juvenile court's order.

FACTUAL AND PROCEDURAL BACKGROUND

1. *Facts*

On August 26, 2016, 16-year-old C.M. and two other youths arrived at an on-campus football game at Baldwin Park High School. A school employee, who was taking tickets, noticed that they smelled of marijuana, and contacted security. Baldwin Park School Police Officer Nathan Ishida spoke with C.M. Ishida detected the odor of marijuana emanating from C.M.'s person, and noticed his eyes were red and watery. C.M. denied marijuana use, but explained that he had been at a friend's house where people were smoking marijuana in a closed room ("hot boxing"). When Ishida asked if C.M. had any sharp objects, C.M. stated he had a box cutter for "protection." Ishida found the box cutter, with the razor blade retracted, clipped to C.M.'s pants pocket. C.M. was polite and compliant. Ishida cited C.M. and released him to his mother.

---

[1] All further undesignated statutory references are to the Welfare and Institutions Code.

2. *Procedure*

On November 9, 2016, the People filed a juvenile petition pursuant to section 602, alleging that C.M. possessed a razor blade and box cutter on school grounds in violation of Penal Code section 626.10, subdivision (a)(2), a misdemeanor. After a contested hearing, the juvenile court sustained the petition. It declared C.M. a ward of the court, declared the offense a misdemeanor, placed him home on probation, and ordered him to complete 50 hours of community service and undergo drug testing.

On February 2, 2017, C.M. filed a motion to dismiss the petition pursuant to section 782. He argued that he had truthfully informed Officer Ishida that he had the box cutter; was respectful and complied with the orders of the officer and school staff; had no prior contacts with law enforcement and was not involved with gangs; got into trouble when he began "hanging around some bad friends," but had since stopped associating with them; had markedly improved his grades, earning seven A's and one C; had "grown tremendously since his arrest and [was] much better at home and school," according to his mother; was "a good and respectful kid, who made a mistake"; and the probation officer recommended that the court place him on probation without adjudging him a ward of the court (§ 725). At the hearing on the motion, C.M.'s counsel noted that, as examples of C.M.'s change in behavior, C.M. had declined to attend a party after learning drugs were being used there, and had earned an A in a class that covered anger management and drug counseling.

The juvenile court denied the motion to dismiss. It reasoned that when C.M. was found with the box cutter, he had come "from hot boxing with his friends. He was under the

influence of marijuana at the time he possessed the weapon. He had been smoking drugs for at least two months before the date of the incident. He was keeping bad company according to the [probation] report. And, academically, during the 2014 to 2015 school year, he had fallen behind in school credits." During the four school terms prior to the offense, he had numerous failing grades. The court acknowledged that C.M. had been "shaken" by his contact with law enforcement and the court system, and that the improvement in his grades was a "positive thing." But the "sudden change in his behavior was not a basis for dismissal. The court explained: "I'm looking at the case as a whole. I'm looking at the background information and the [probation report]. [¶] And, also, when you look at similar cases . . . this case is actually aggravated. . . . In regard to the grades and also in regard to the drug use. And during this timeframe where things have changed, the one thing that is missing which is necessary in this case is drug testing. [¶] Based upon the facts and circumstances . . . this dismissal would not be in the interest of justice nor can I find based upon the history, facts, and circumstances as stated earlier that he is not in need of treatment or rehabilitation."

For the same reasons, the court denied C.M.'s request that he be placed on probation without being declared a ward of the court, pursuant to section 725. The court indicated that if C.M. maintained his improved grades, made up his class credits, stayed out of trouble, and "tested clean for drugs," it would be inclined to take him off probation and seal his records.

DISCUSSION

The juvenile court did not abuse its discretion by denying C.M.'s requests for dismissal or nonwardship probation

C.M. contends the juvenile court abused its discretion by denying his motion to dismiss the petition and his request to place him on nonwardship probation. Echoing his arguments below, he urges that he had no prior contact with the juvenile justice system; when stopped at the football game, he was honest, polite and cooperative; in the months following the incident he improved his grades, assisted around the house, and "began to turn around his life"; and the probation report recommended nonwardship probation. C.M. argues that these circumstances demonstrated the "precise type of progress and improvement imagined by section 782." He complains that the juvenile court's denial of his request for dismissal "resulted in a harsh punishment" and an "unjust result."

It is the juvenile court's duty to determine the most appropriate disposition for a minor, focusing on his or her best interests and the protection of both the minor and the public. (*In re Greg F.* (2012) 55 Cal.4th 393, 417; *In re Khamphouy S.* (1993) 12 Cal.App.4th 1130, 1135; *In re Walter P.* (2009) 170 Cal.App.4th 95, 99.) "Central to the juvenile court's mission are the care, treatment, guidance, and rehabilitation of the delinquent juvenile." (*In re Walter P.*, at p. 99.)

Once a court finds the minor is a person described by section 602, it has discretion to adjudge the minor to be a ward of the court, place the minor on probation for a period of up to six months without adjudging him or her to be a ward, or dismiss the petition if the interests of justice and the welfare of the minor so require, or if the court determines the minor is not in need of

treatment or rehabilitation. (§§ 725, subds. (a) & (b), 782; Cal. Rules of Court, rule 5.790, subd. (a)(2).) In determining the appropriate disposition, the court "shall consider, in addition to other relevant and material evidence, (1) the age of the minor, (2) the circumstances and gravity of the offense committed by the minor, and (3) the minor's previous delinquent history." (§ 725.5; *In re Jonathan T.* (2008) 166 Cal.App.4th 474, 484–485.) The court need not specifically discuss each enumerated factor, but it must be "apparent from all of the surrounding circumstances that the court at least considered the appropriate factors." (*In re John F.* (1983) 150 Cal.App.3d 182, 185, fn. omitted.)

We review a juvenile court's dispositional order for abuse of discretion, indulging all reasonable inferences from the evidence and the record to support the juvenile court's action. (*In re Jonathan T.*, *supra*, 166 Cal.App.4th at p. 485; *In re Khamphouy S.*, *supra*, 12 Cal.App.4th at p. 1135; *In re Darryl T.* (1978) 81 Cal.App.3d 874, 877, superseded by statute on another point as stated in *In re Dorothy B.* (1986) 182 Cal.App.3d 509, 518.) A juvenile court abuses its discretion only when it has "exceeded the bounds of reason by making an arbitrary, capricious or patently absurd determination" (*In re Marcelo B.* (2012) 209 Cal.App.4th 635, 642) or when it fails to consider the factors enumerated in section 725.5 (*In re John F.*, *supra*, 150 Cal.App.3d at p. 183).

We discern no abuse of discretion here. The court considered the relevant factors. It heard argument from C.M.'s counsel, and its minute orders indicate the court read and considered the motion to dismiss and the probation officer's report. Thus, the record shows the court considered C.M.'s age, the circumstances of the offense, and the absence of any previous

delinquent history, as these were all addressed in the motion and/or the probation report. The court indicated it considered the "case as a whole," including the factors resulting in the offense (C.M.'s drug use and unsavory companions) and the improvement in his formerly failing grades. The court reasonably found drug testing was necessary to assist the minor in continuing on his rehabilitative path. The offense was potentially serious; C.M. brought the box cutter for "protection," indicating he had contemplated using it against other persons. Moreover, prior to the offense he was doing poorly in school and experimenting with drugs, indicating a burgeoning drug problem. Given these facts, there was substantial evidence supporting the juvenile court's conclusion that C.M. needed treatment or rehabilitation, precluding dismissal of the petition under section 782. C.M.'s progress in school and positive changes were indeed admirable, but were of somewhat recent vintage, and did not require that the trial court dismiss the petition or order nonwardship probation. Nor was the disposition chosen particularly harsh: although made a ward, C.M. was released home on probation, and the court indicated it was amenable to taking him off probation and sealing his records if he continued to perform well. There was no abuse of discretion. (See *In re J.W.* (2015) 236 Cal.App.4th 663, 670 [finding that appellant was not yet rehabilitated was not an abuse of discretion given the seriousness of the offenses and the recency of their commission].)

DISPOSITION

The order of wardship is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EDMON, P. J.

We concur:

EGERTON, J.

KALRA, J.*

---

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