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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

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

B251968

THE PEOPLE,

(Los Angeles County  
Super. Ct. No. JJ19188)

Plaintiff and Respondent,

v.

ROBERT H.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County.

Philip Mautino, Judge. Affirmed.

Esther R. Sorkin, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Robert H. (the minor) appeals from the order declaring him a person described by Welfare and Institutions Code section 602.<sup>1</sup> Based on our independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441 (*Wende*), we affirm.

### **FACTUAL AND PROCEDURAL HISTORY**

In September 2011, the then 15-year-old minor was placed home on probation after admitting a section 602 petition which alleged he committed a second degree robbery (count 1) and grand theft (count 2). Over the next few months, the minor tested positive for marijuana. After becoming involved in an altercation with another student and then fleeing from pursuing police, he admitted a section 602 petition which alleged that he resisted a police officer attempting to discharge his duty. The minor remained home on probation. In October 2012, the minor was ordered placed in an open facility after he admitted a section 602 petition which alleged that he had been under the influence of methamphetamines.

On May 8, 2013, a week after he was released home on probation, the minor was arrested and a section 602 petition was later filed which alleged he was in possession of a firearm (Pen. Code, § 29610) (count 1); possessed a concealed weapon (Pen. Code, § 25400, subd. (a)(2)) (count 2); had a concealed firearm in a vehicle (Pen. Code, § 25400(a)(1)) (count 3); was carrying a loaded firearm (Pen. Code, § 25850, subd. (c)(3)) (count 4); and was in possession of live ammunition (Pen. Code, § 29650) (count 5); a gang enhancement was alleged as to each count (Pen. Code, § 186.11, subd. (b)(1)(A)).

The evidence at the June 10, 2013 hearing on the petition established that the minor was a self-admitted member of the criminal street gang known as “Willow Street” (a sub-set of the Click Evil Gangsters). In the early evening on May 8, 2013, City of South Gate Police Officer Eder Vergara was on patrol in a marked car when he saw the

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<sup>1</sup> All future undesignated statutory references are to the Welfare and Institutions Code.

minor, with whom Vergara was familiar, in the passenger seat of a car traveling westbound on Willow Place; the driver was later identified as another Willow Street gang member, Victor Hernandez.

After the minor made eye contact with Vergara, Hernandez sped up, exceeding the speed limit. Vergara followed for about 500 feet before activating his emergency lights to initiate a traffic stop. Vergara observed some “furtive movements” by the car’s occupants before the passenger side door opened while the car was still moving. After the car collided with a parked car, Hernandez exited from the driver’s door and walked towards Vergara saying, “I don’t have anything. It’s his. I didn’t do anything,”

Vergara drew his gun when Hernandez did not immediately comply with orders to stop and put his hands up. Although primarily focused on Hernandez, Vergara saw the minor exit the car’s passenger side and walk towards the car trunk; Vergara did not notice anything in the minor’s hands, which were at his waistband. Vergara turned his attention back to Hernandez, who was still walking towards him in disregard of orders to stop. As he was placing Hernandez on the ground to handcuff him, Vergara heard the sound of something falling on the ground. Looking back towards where the minor had been standing, Vergara saw the minor running west on Willow Place, towards Santa Fe Avenue. Vergara noticed a handgun on the ground where the minor had been standing; this was also about where the passenger side door would have been when it first opened, while the car was still moving. Vergara was sure the gun had not been there before the minor had been standing there. Vergara broadcast a request for assistance in apprehending the fleeing minor. Vergara collected the gun, which was loaded, and placed it in an evidence bag. Vergara also recovered a black baseball cap with the letter “W” on it. The minor was apprehended by officers Christian Perez and Isidro Munoz at a nearby gas station. After waiving his *Miranda* rights, the minor said the gun was not his; he heard the gun fall and knew that Vergara heard it, too; he ran away because he did not want to get caught up in anything.

Officer Perez’s account of events was identical to Vergara’s in all material respects. Perez also testified as a gang expert. The location where Vergara made contact

with the minor was in an area claimed by Willow Street as its territory. The baseball cap with the “W” was recognizable Willow Street-related apparel. Perez listed some of Willow Street’s rival gangs and testified that gang members carry weapons to protect their territory from other gangs. In Perez’s opinion, Hernandez came out of the car yelling and walking towards Vergara with the intention of distracting the officer’s attention away from the minor, who was supposed to run away with the gun. Perez testified that the primary activities of Willow Street are vandalism, grand theft auto, assaults, intimidation, possession of drugs for sale, possession of weapons and robbery. He concluded that the minor committed the charged crimes for the benefit of his gang.

The minor admitted he and Hernandez were Willow Street gang members. The minor knew that members of the gang committed a lot of felonies and he understood that he had to protect his gang’s territory from tagging by rival gang members. Sometimes, he had to use a weapon to protect his gang. When Hernandez picked the minor up that day, they planned to go somewhere to get high; the minor did not know there was a gun in the car. As they were approaching Long Beach Boulevard, the minor noticed Vergara’s patrol car and warned Hernandez not to go down that street because if Vergara saw the minor, Vergara would pull him over to check his probation compliance. Disregarding the minor’s warning, Hernandez turned onto that street. About halfway down the block, Hernandez looked in the rear view mirror and announced that they were being followed by a police car. As Hernandez was quickly pulling over and slowing down, the minor opened the passenger side door before the car came to a complete stop. Hernandez threw a gun into the minor’s lap and said, “get the gun and run.” When the minor pushed the gun off his lap with the palm of his hand, it fell onto the driver’s side floorboard, near the accelerator. As the minor was exiting the still moving vehicle, Hernandez threw the gun a second time. This time, it hit the open passenger side door and fell on the sidewalk. The minor got out of the car after the gun fell on the ground, but before the car collided with a parked car. The minor started to walk towards the police officer, but then panicked and ran away. The minor never had the gun in his

waistband. The juvenile court sustained the petition and continued the matter for disposition.

At the disposition hearing on August 14, 2013, the minor admitted another section 602 petition alleging he committed a robbery on October 16, 2012, in exchange for a six-month community camp placement. The juvenile court terminated the home of parent order and placed the minor in the Camp Community Placement Program for a period not to exceed nine years, six months. The minor timely appealed.

We appointed counsel to represent the minor on appeal. After examination of the record, appointed counsel filed a separate opening brief which contained an acknowledgment that she had been unable to find any arguable issues and requesting that we independently review the record pursuant to *Wende, supra*, 25 Cal.3d 436. This court sent notices to the minor at Juvenile Camp Headquarters and at his home address, in care of his mother, advising him that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. The minor has not submitted any contentions or issues he wishes us to consider.

We have examined the entire record and are satisfied that appointed counsel fully complied with her responsibilities and that no arguable issues exist. (*Wende, supra*, 25 Cal.3d at p. 441.)

### **DISPOSITION**

The order is affirmed.

RUBIN, ACTING P. J.

WE CONCUR:

FLIER, J.

GRIMES, J.