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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

C.D.,

Defendant and Appellant.

B276219

(Los Angeles County
Super. Ct. No. YJ38049)

APPEAL from a judgment of the Superior Court of Los Angeles County, David S. Wesley, Judge. Affirmed as modified.

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

Kathleen A. Kenealy, Acting Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Victoria B. Wilson, Supervising Deputy Attorney General, Lindsay Boyd, Deputy Attorney General, for Plaintiff and Respondent.

Defendant and appellant C.D. (Minor) appeals a juvenile court order sustaining a Welfare and Institutions Code section 602¹ petition alleging he committed a robbery. Following a disposition hearing, the juvenile court ordered Minor placed home on probation. The minute order memorializing the juvenile court's decision states Minor is subject to a maximum confinement term of five years. Minor argues the five-year maximum term is erroneous because it was not part of the juvenile court's oral pronouncement of judgment and because, in any event, he was not ordered removed from his parents' custody. The Attorney General concedes, and we agree, that the maximum confinement term should be stricken.

I. BACKGROUND

On September 28, 2014, Minor, who was then 17 years old, approached a female victim from behind, grabbed her in a "bear hug," and pulled a gold chain from her neck. Minor fled the scene but was apprehended by police a short time later.

The Los Angeles County District Attorney filed a Welfare and Institutions Code section 602 petition against Minor alleging one count of robbery in violation of Penal Code section 211. At a subsequent adjudication hearing, the juvenile court found the robbery charge true.

At Minor's disposition hearing, the juvenile court declared Minor a ward of the court and designated the offense a felony. Toward the end of the disposition hearing, the court clerk asked defense counsel what the "maximum" was, presumably referring

¹ Undesignated statutory references that follow are to the Welfare and Institutions Code.

to the maximum term of confinement for the offense. Defense counsel responded “five years.” The juvenile court did not include a maximum confinement term as part of its oral pronouncement of its disposition order. The minute order later issued by the court, however, states “Minor may not be held in physical confinement for a period to exceed 5-years.”

II. DISCUSSION

When a minor is removed from the physical custody of his parent as a result of a criminal violation sustained as charged in a section 602 petition, the juvenile court must specify the maximum term of confinement that could be imposed on an adult convicted of the same offense. (§ 726, subd. (d)(1).)

However, “[w]hen a juvenile ward is allowed to remain in his parents’ custody, there is no physical confinement and therefore no need to set a maximum term of confinement.” (*In re Ali A.* (2006) 139 Cal.App.4th 569, 571.) That is the case here, where Minor was placed home on probation with his mother. We will therefore order the maximum confinement term stricken. (*In re A.C.* (2014) 224 Cal.App.4th 590, 592 [where juvenile court order contains a “maximum confinement term for a minor who is not removed from parental custody, the remedy is to strike the term”]; *In re Matthew A.* (2008) 165 Cal.App.4th 537, 541.)

DISPOSITION

The maximum confinement term is stricken from the juvenile court's July 11, 2016, minute order. In all other respects, the judgment is affirmed.

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BAKER, J.

We concur:

KRIEGLER, Acting P.J.

KUMAR, J.^{*}

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