Filed 5/24/12 In re Leopoldo B. CA2/2

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re LEOPOLDO B., a Person Coming Under the Juvenile Court Law.	B235535 (Los Angeles County Super. Ct. No. VJ41612)
THE PEOPLE, Plaintiff and Respondent, v. LEOPOLDO B., Defendant and Appellant.	

APPEAL from a judgment of the Superior Court of Los Angeles County. Fumiko H. Wasserman, Judge. Affirmed.

Jonathan B. Steiner and Dee A. Hayashi, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Steven D. Matthews and Herbert S. Tetef, Deputy Attorneys General for Plaintiff and Respondent.

Minor Leopoldo B. appeals from a dispositional order of the juvenile court, asking that the maximum period of confinement noted in the judgment be stricken as unauthorized. We affirm the judgment.

BACKGROUND

A petition to bring minor within the jurisdiction of the juvenile court, pursuant to Welfare and Institutions Code section 602, alleged that minor committed second degree robbery in violation of Penal Code section 211. The juvenile court heard evidence that minor had hit Richard Martinez in the face and had then taken money and his cell phone from him. On August 25, 2011, the juvenile court sustained the petition, declared minor a ward of the court, and ordered him to be placed at home on probation.

After reciting the terms of probation, the juvenile court stated: "Now, there is no confinement time on home on probation. But so that the minute order reflects, I am going to note that the Penal Code section 211 does carry a five year maximum." The minute order reflected a maximum period of confinement of five years. Minor filed a timely notice of appeal.

DISCUSSION

Minor's sole contention on appeal is that the juvenile court erred in setting a maximum term of confinement, which is required only when a minor is removed from the physical custody of his parents or guardian. (See Welf. & Inst. Code, §§ 726, subd. (c) & 731, subd. (c).) Respondent concedes that the juvenile court erred in setting a maximum term of confinement, but contends that modification of the order is unnecessary, as the notation is void and of no effect.

Respondent relies on *In re Ali A.* (2006) 139 Cal.App.4th 569, 571, 573 (*Ali A.*), where the appellate court recognized the error, but declined to change it in the absence of a showing of prejudice. The court explained: "The minor suggests that if this maximum term of confinement is not stricken and he is later committed to the [California Youth Authority], the judge responsible for that disposition may believe he or she is required to impose the three-year maximum term contained in the present order. We trust that will not occur, as this opinion will be part of the file in this proceeding, and we have made it

clear that the maximum term of confinement in the present order is of no legal effect." (See *Id*. at p. 574, fn. 2.)

Relying on *In re Matthew A*. (2008) 165 Cal.App.4th 537 (*Matthew A.*), minor asks that the term be stricken from the minute order, as the appellate court did in that case. In *Matthew A.*, the court struck the notation for the sole reason that past criticism without correction had not deterred juvenile courts from entering such void notations. (*Id*. at p. 541.) Striking the notation apparently has not had the anticipated deterrent effect. In any event, we agree with respondent and the appellate court in *Ali A*., and we decline to correct a trivial error that will have no effect on the disposition or future proceedings. (See *Ali A. supra*, 139 Cal.App.4th at p. 574, fn. 2.)

DISPOSITION

The judgment is affirmed.

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_____, J.
CHAVEZ

We concur:

_____, P. J.
BOREN

_____, J.
DOI TODD