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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

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

B253716
(Los Angeles County
Super. Ct. No. TJ20494)

THE PEOPLE,

Plaintiff and Respondent,

v.

JONATHAN H.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Catherine J. Pratt, Commissioner. Affirmed.

James M. Crawford, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Lance E. Winters, Assistant Attorney General, Steven D. Matthews and Analee J. Brodie, Deputy Attorneys General, for Plaintiff and Respondent.

After the filing of a petition under Welfare and Institutions Code section 602 and an adjudication hearing, the juvenile court declared Jonathan H. a ward of the court based on a finding that he committed the crime of second degree robbery (Pen. Code, § 211) with the infliction of great bodily injury (Pen. Code, § 12022.7, subd. (a)). The court ordered a midterm camp placement of six months for Jonathan and set his maximum period of confinement at eight years two months. Jonathan appealed, contending that his maximum term of confinement is eight years, not eight years two months. We reject his contention and thus affirm the order.

DISCUSSION

Welfare and Institutions Code section 726, subdivision (d), provides: “If the minor is removed from the physical custody of his or her parent or guardian as the result of an order of wardship made pursuant to [s]ection 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.” The provision “permits the juvenile court, in its discretion, to aggregate terms, both on the basis of multiple counts, and on previously sustained section 602 petitions in computing the maximum confinement term. [Citation.] When aggregating multiple counts and previously sustained petitions, the maximum confinement term is calculated by adding the upper term for the principal offense, plus one-third of the middle term for each of the remaining subordinate felonies or misdemeanors. [Citations.]” (*In re David H.* (2003) 106 Cal.App.4th 1131, 1133-1134.)

The crime of second degree robbery carries a term of imprisonment in state prison for two, three or five years. (Pen. Code, § 213, subd. (a)(2).) The infliction of great bodily injury pursuant to Penal Code section 12022.7, subdivision (a), requires an additional and consecutive terms of imprisonment in state prison of three years. At the time of disposition in the instant case, Jonathan was on probation for assault in violation of Penal Code section 240. Assault is punishable by fine or imprisonment in county jail, not exceeding six months, or both. (Pen. Code, § 241, subd. (a).) Under Welfare and

Institutions Code section 726, subdivision (d), the juvenile court acted within its discretion by setting Jonathan's maximum term of confinement at eight years two months, consisting of five years for the second degree robbery and three years for the infliction of great bodily injury, plus two months (one-third of the six-month term) for the assault for which he was on probation. (See *In re Eric J.* (1979) 25 Cal.3d 522, 537-538.)

DISPOSITION

The order is affirmed.

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ROTHSCHILD, P. J.

We concur:

JOHNSON, J.

MILLER, J.*

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