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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

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

B279389
(Los Angeles County
Super. Ct. No. MJ23391)

THE PEOPLE,

Plaintiff and Respondent,

v.

V.H.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of
Los Angeles County, Denise M. McLaughlin-Bennett, Judge.
Affirmed.

Torres & Torres, Steven A. Torres, 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, Stephanie A. Miyoshi and
Tita Nguyen, Deputy Attorneys General for Plaintiff and
Respondent.

In a negotiated disposition, V.H. admitted he had assaulted a fellow high school student and was adjudicated a ward of the juvenile court and ordered into the camp community placement program. V.H. admitted multiple probation violations shortly thereafter. Ultimately, the juvenile court committed him to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities (DJF) following a contested disposition hearing. On appeal, V.H. contends the juvenile court abused its discretion in committing him to DJF rather than a less restrictive setting. Having considered the record as a whole, we conclude the juvenile court did not abuse its discretion and affirm the dispositional order.

FACTUAL AND PROCEDURAL BACKGROUND

V.H. has a long history with the juvenile court and has had a very difficult upbringing starting with being abandoned by his parents at a very early age and progressing through many out-of-home placements. Because this history was before the juvenile court and is relevant to its and our own consideration of the dispositional order before us, we recount that history below.

A. The Delinquency Petition

On November 30, 2015, a Welfare and Institutions Code section 602¹ petition was filed alleging V.H., then 17 years old, committed assault by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4)), with a great bodily injury enhancement (Pen. Code, § 12022.7, subd. (a)), second degree robbery (Pen. Code, § 211) and misdemeanor battery (Pen. Code, § 243, subd. (e)(1)). V.H. denied the allegations, and the juvenile court referred the matter for a preplea report and a joint section 241.1 assessment report based on V.H.'s section 300 dependency status. (See § 241.1, subd. (e); *In re Ray M.* (2016) 6 Cal.App.5th 1038, 1048.)

B. The Preplea Report

The preplea report described the assault as having occurred in a classroom at V.H.'s high school. V.H. approached a male and female student from behind and punched the male student in the side of the head. V.H. grabbed the female student's arms, then attempted to leave with her iPad. The girl grasped his arm and the two of them wrestled over the iPad until a teacher intervened and placed V.H. in a bear hug. When the teacher released V.H., he picked up the iPad, fled from the classroom, and threw the iPad into the school parking lot.

C. The Section 241.1 Assessment Report

The joint assessment report, completed on March 9, 2016, detailed V.H.'s troubled background. V.H. was born on April 22, 1998. Not long after his birth, V.H.'s mother began to neglect

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

and physically abuse him. She abandoned V.H. when he was approximately eight months old, and he became part of the dependency system. At some point, his mother was incarcerated for a drug offense. V.H.'s father also abandoned him. Between 1998 and 2015, V.H. had 24 out-of-home placements, including placements in his mother's home, each of which was terminated as a result of abuse and neglect.

V.H. also had an extensive mental health history. In addition to emotional disturbance, V.H. was diagnosed with mood disorder and bipolar disorder, but he resisted taking his prescribed medications.

Between 2006 and 2015, V.H. was enrolled in 18 schools in different districts; his attendance suffered from truancies and suspensions. In some schools, V.H. received special education services under IEPs (individualized education plans) for his emotional disturbance issues. V.H.'s documented misconduct in school included threatening and insulting fellow students, fighting with other students, defying teachers while in class, leaving class without permission, disrespecting administrators, and bringing controlled substances and an imitation firearm to campus. Outside of school, V.H.'s behavior included physical aggression, alcohol and marijuana use, persistent refusal of mental health services, and disobeying prescribed curfews.

The joint assessment report indicated that V.H. suffered from anger and abandonment issues and "has acted delinquently on many other occasions," but had "never been held accountable for his behavior or been arrested. It appears that the minor tends to escape consequences and due to the severity of these charges[,] he now requires to be placed into a secured and locked facility for the safety of his own well-being and the safety of

others at this time.” The report concluded V.H. required “a high level of supervision” and recommended V.H. be granted formal probation and ordered into the camp-community placement program.

D. The Camp-Community Placement Disposition

On March 14, 2016, V.H. admitted the aggravated assault allegation. The juvenile court sustained the petition as to that count and declared V.H. a ward of the court. The court and counsel agreed with the disposition recommended in the assessment report. The juvenile court ordered V.H. into a five-to-seven-month camp-community placement program, subject to the following terms and conditions of probation: V.H. was to obey the rules of the camp-community placement program and his probation officers; refrain from threatening or fighting with anyone; and participate in substance abuse and anger management counseling and psychological and life skills counseling. V.H.’s maximum term of confinement was calculated as four years. The remaining counts and great bodily injury enhancement were dismissed.

E. The Probation Violations

V.H.’s camp placement was at Camp Jarvis. Within two months of his arrival there, V.H. was the subject of two Welfare and Institutions Code section 777 petitions. Together, the petitions alleged V.H. had violated probation by fighting with another youth; challenging another youth to a fight; cursing and attempting to throw a rock at a probation officer; “flicking” an unknown liquid on a probation officer; throwing a basketball at a probation officer and causing injury; “flipping off” and threatening to spit on a probation officer after being told to

refrain from throwing gang signs; refusing to follow camp rules; and disrespecting probation officers and failing to follow their instructions.

V.H. denied the allegations, and the juvenile court scheduled a June 10, 2016 hearing on both petitions, terminated V.H.'s camp-community placement order, and directed that he remain in juvenile hall until the hearing.

At the June 10, 2016 hearing, V.H. admitted he had failed to follow the probation officers' instructions as alleged in the first petition. He also admitted disrespecting the probation officers, cursing at a probation officer, and failing to follow instructions as alleged in the second petition. The juvenile court sustained the petitions as to those allegations, reinstated the camp-community placement order, and directed that V.H. remain at camp pending the July 11, 2016 disposition hearing.

On June 15, 2016, the day after his return to Camp Jarvis, V.H. was suspended from school for cursing at school staff, refusing to following instructions, leaving the school unescorted, and shouting obscenities at a school administrator. On June 29, 2016, the juvenile court ordered V.H. detained in juvenile hall until the disposition hearing.

V.H.'s contested disposition hearing was held on September 15 and 27, 2016. The juvenile court was presented with two placement alternatives, either commitment to DJF as recommended by the prosecutor and the probation department, or continued placement in juvenile hall followed by transitional housing and extended foster care as urged by defense counsel.

The juvenile court considered the parties' testimonial and documentary evidence. Testifying for the People were Parole Agent Michael Farmer, and Deputy Probation Officers

Martha Rodriguez and Lamont Mackey. The defense presented the testimony of Detention Service Officer Daisy Cuevas, Psychologist Josue Sibrian, Assistant Principal Dr. Scott Bastian, Social Worker Luisa Campbell, Social Worker Charles Rabina, and Daniel Macallair, Executive Director of the Center of Juvenile and Criminal Justice, a nonprofit organization based in San Francisco. V.H. did not testify.

The People introduced the following exhibits: All of V.H.'s incident reports submitted by the probation officer, and DJF documents entitled "Reception Center/Intake Process," "Intervention Strategies," "Education Services," "Mental Health Treatment Program Sheet," and "Pine Grove Conservation Camp Information Sheet." Additionally, the People introduced exhibits entitled, "Executive Summary and Recommendation For Gangs and Violence in California's Youth Correctional Facilities" dated March 23, 2012 and the "Special Master 34 Report," dated February 22, 2016, the final report. The defense introduced exhibits entitled "COMSTAT, DJJ Statistical Report, 13-Month Data" dated September 13, 2016, and "Department of Corrections and Rehabilitation Division of Juvenile Justice Population Overview" dated December 31, 2015.²

² The second set of the People's exhibits and the defense exhibits pertained to the *Farrell v. Allen* (Super. Ct. Alameda County, No. RG 03079344) litigation, a case in which the state entered into a consent decree in 2004 to develop and implement plans for improving DJF facilities specifically in the areas of safety and welfare, mental health, education, sexual behavior treatment, health care, dental services, and youths with disabilities. The consent decree was dismissed in February 2016.

Following argument, the juvenile court took the matter under submission. In a six-page ruling on October 4, 2016, the court concluded “[i]t is evident that [V.H.] is in need of extensive services which are not available in Juvenile Hall. It is equally evident that he cannot be returned to a camp setting. After review of the testimony received in this case, the exhibits submitted and careful consideration of all the arguments made,” the court found V.H.’s “mental and physical condition and qualifications . . . render it probable” he “will benefit from the reformatory discipline or other treatment provided” by DJF and ordered him committed to that institution. The court requested that V.H. be referred to the fire camp program and receive gang diversion counseling and psychotropic medication as needed. The court calculated the maximum term of confinement as four years, less 216 days of custody credit. V.H. filed a timely notice of appeal.

F. The Evidence Presented at the Contested Disposition Hearing

1. The People’s evidence

Parole Agent Michael Farmer worked as an intake court liaison for DJF. He testified as an expert regarding DJF’s operation, facilities, programs, and services. According to Parole Agent Farmer, at the time, the total population of youths committed to DJF was 690, ages 14 to 25 years, of whom 665 were male. They were housed at three similar facilities (two in Stockton and one in Ventura) and a fire camp. The majority of youths from Los Angeles County end up at the Ventura facility.

Parole Agent Farmer further testified that when a male youth initially arrives at DJF, he undergoes 45 days of extensive

assessment through testing, screening, and interviews at the Stockton facility. The goal is to develop an individualized treatment program for the youth before he is assigned to a permanent living unit. Most of the permanent living units consist of individual rooms; only one is “dormitory style.” Parole Agent Farmer stated what determines a youth’s assigned living unit is his age, treatment needs, and safety risks assessment.

He explained that the primary types of treatment programs or intervention strategies are (1) Counterpoint and IMPACT, which address social attitudes and peer choices; (2) anger interruption training; and (3) substance abuse treatment. Counterpoint is a skill-of-the-week program where social skills are taught in 20-minute increments on a rotating basis over the year. Youths also engage in interactive journal writing, which they use in both group sessions and individual discussions with counselors. Project IMPACT, which is co-led by the California Department of Corrections Gang Intervention Unit and former gang members, addresses gang affiliations and violence. He opined that IMPACT has been well-received by participating youths, who often train to become co-presenters.³

Parole Agent Farmer also testified about DJF’s educational services and opportunities. Entering youths immediately begin classes during their 45-day screening period. When they arrive at their designated facility, the youths attend a state accredited high school with classes consisting of 12 to 15 students. He

³ Parole Agent Farmer was not asked to describe the anger interruption training and substance abuse treatment intervention strategies.

explained the three facilities offer high school diplomas, post-secondary education courses, and vocational training.

With respect to mental health services, Parole Agent Farmer stated each permanent living unit has a psychologist for a youth's individual and family therapy as needed. For those youths who may need additional treatment, there are two residential mental health units.

He opined the fire camp is unlike the other three facilities. It is an open facility located in Amador County and operates in conjunction with California Department of Forestry and Fire Protection (Cal Fire). The youths are trained to fight fires throughout California. Youths arriving at DJF are eligible for fire camp if they do not have a history of assaultive or aggressive behavior. Arriving youths who do not qualify may earn eligibility based on their behavior during their stay. Parole Agent Farmer testified a youth with a prior offense for aggravated assault without injury would have an 18-month projected parole board date. If the assault were committed with injury, the youth would have a two-year projected parole board date.

On cross-examination, Parole Agent Farmer acknowledged there were staffing shortages at the DJF facilities in 2016, youth-involved batteries, use-of-force incidents, and injuries to youths at DJF facilities from 2015 through 2016. Parole Agent Farmer also acknowledged over 70 percent of the youths at DJF facilities were affiliated with gangs, and youths have tested positive for marijuana and methamphetamine use. The rate of violence tended to "ebb and flow" with the changing demographics at the facilities as "different people" were committed to and released from DJF. On average, however, as shown by the special master's latest report, the rate of violence had decreased. With

respect to the Ventura facility, which is where V.H. would likely be placed, Parole Agent Farmer did not consider the current rate of violence to be high.

Deputy Probation Officer Martha Rodriguez testified she was conducting individual searches of the youths at Camp Jarvis on April 18, 2016. When it was V.H.'s turn to be searched, he shoved Officer Rodriguez, called her a "bitch," and threatened to spit on her. The same day, V.H. threw a rock at Officer Rodriguez, which missed hitting her. Later, using both hands, he flicked an unknown liquid at her face, which irritated her lips. As a result, Officer Rodriguez had to have blood drawn four times over the year to test for disease.

Deputy Probation Officer Lamont Mackey testified he was V.H.'s primary probation officer at Camp Jarvis and remained in telephone contact with him after V.H. was transferred to juvenile hall. Officer Mackey recounted some incidents of V.H.'s misconduct at juvenile hall, beginning with the last week of August 2016, to wit, on one occasion, V.H. refused to surrender a pen and cursed the staff. On another occasion, V.H. cursed the staff, refused to be searched upon returning to juvenile hall, and kicked off his shoes toward a probation officer. Officer Mackey also testified about V.H.'s conduct in other instances that suggested gang affiliation. In May 2016, V.H. threw gang signs at Deputy Probation Officer Martha Rodriguez and said he was from the P.J. Watts gang. Officer Mackey testified further that during the last week of August 2016, V.H. insulted a known gang member with a derogatory term used by rival gang members. According to Officer Mackey, V.H. always blamed everyone else for his problems, never taking responsibility. The officer stated he reminded V.H. repeatedly of the juvenile

court's admonishment that V.H. may face DJF commitment if V.H. failed to correct his aggressive behavior. V.H. replied he knew from his counsel that he would not be committed to DJF.

Officer Mackey testified that while at Camp Jarvis, V.H. refused to participate in an anger management program, individual counseling with a mental health clinician, or academic assistance. Although V.H.'s juvenile hall detentions prevented V.H. from attending the camp substance abuse classes, his substance abuse issues could have been addressed in individual counseling. According to Officer Mackey, all the Camp Jarvis services which could have helped V.H. had been "exhausted." He opined the camp setting was not appropriate for V.H.'s needs. Officer Mackey recounted V.H. had told him that V.H. functioned better when assigned his own room. Although V.H. had a private room in juvenile hall, he did not have access to anger management programs and substance abuse classes there. Officer Mackey further opined V.H. needed a secure setting with those resources.

2. The Defense evidence

Detention Service Officer Daisy Cuevas was the IEP Coordinator for juvenile hall. At the most recent IEP meeting on September 12, 2016, Officer Cuevas presented two behavior incident reports on behalf of V.H. At the meeting, she characterized the incidents as "minor" and stated V.H.'s behavior was improving at juvenile hall. On cross-examination, Officer Cuevas acknowledged she had not reviewed any earlier incident reports, or reports dated after the September 12, 2016 meeting. Nor was she aware of any reported incidents at Camp Jarvis.

Josue Sibrian was the psychologist for the juvenile hall school. Sibrian testified he had been counseling V.H. for the past three months for at least 30 minutes each week, focusing on his school behavior. Although V.H. was initially resistant, he was currently cooperating with counseling. Sibrian stated over the last two months, V.H. had been respectful and “mindful” about grades and school work. He opined V.H. was meeting the goals set in his most recent IEP meeting.

Dr. Scott Bastian testified as the Assistant Principal of Special Education for the juvenile hall school. Dr. Bastian first met V.H. when V.H. requested an IEP meeting to discuss transferring from special education classes to general education classes. Following the meeting, V.H. was placed in general education classes with access to special education resource specialists. Dr. Bastian stated although V.H. still had some behavioral issues, he was doing well overall in the new setting; V.H. recently expressed an interest in attending college. In Dr. Bastian’s opinion, V.H. was making an effort to succeed in school and to graduate.

Luisa Campbell was a social worker for the Los Angeles County Office of the Public Defender. She testified about her psychological evaluation of V.H. and preparation of a report on her findings. In her testimony, Campbell described V.H.’s troubled background and its negative impact on his behavior. Campbell opined that V.H. was improving with individual therapy, which could be supplemented later with group therapy or an anger management program. She testified V.H. was currently on medication, which had caused his behavior to improve significantly.

Daniel Macallair, an expert in youth incarceration and treatment programs, testified about his understanding of DJF. Macallair indicated, notwithstanding recent court-mandated improvements, DJF still had a severe problem with gang violence and gang subculture, and that the rates of violence had not changed over the years. Macallair described the problem as pervasive. He further opined feeling safe and secure was an essential element of rehabilitation, and the youths at DJF generally did not feel safe; they were likely to join gangs for protection and solidarity. The violence and fear of violence had made DJF a correctional institution rather than a rehabilitative one. Macallair opined that a youth who had already experienced trauma in his life would have great difficulty at DJF.

Daniel Macallair also testified that youths entering DJF, who were not selected to be housed in the specialized mental health treatment units, became part of the general population. General population youths did not receive psychotropic drugs or any specialized mental health intervention. According to Macallair, local facilities were better treatment options than DJF, which lacked continuity of service. In other words, once a youth was released from DJF, the available follow-up services varied from county to county. Instead of DJF, Macallair stated he preferred the Gateway Program in San Bernardino because it was community-based and tied to local service agencies.

On cross-examination, Macallair acknowledged that, in dismissing the consent decree, the special master noted DJF's remedial actions were either sufficiently progressing or completed, and the DJF staff's use of force, in particular, had significantly decreased. Macallair also acknowledged research conducted in 2012 showed that DJF staff and youths felt safe at

the facilities and youths reported there was little pressure to join gangs. Macallair agreed that violence was more prevalent among youths housed in open barracks, such as at camps, as opposed to in single rooms at DJF. Macallair testified he was “not really familiar” with the Los Angeles County juvenile facilities, but he knew there was violence occurring in juvenile hall.

Charles Rabina, V.H.’s social worker, also testified for the defense.⁴ Having reached 18 years old, V.H. was considering future options following his confinement period. V.H. was interested in completing high school and then seeking employment and possibly community college. Rabina described the types of housing, transportation and health care services and academic support for which V.H. may be eligible upon his release into the community. The more likely option for V.H. would be transitional housing and extended foster care until he was 21 years old.

DISCUSSION

V.H. contends the juvenile court abused its discretion by committing him to DJF and rejecting the less restrictive setting of juvenile hall.

I. The Standard of Review

We review a juvenile court’s commitment decision for abuse of discretion. (*In re Angela M.* (2003) 111 Cal.App.4th 1392, 1396.) In so doing, we will affirm if there is substantial evidence to support the juvenile court’s findings, indulging all

⁴ Defense counsel’s section 827 petition for discovery of confidential juvenile court records relating to Charles Rabina’s testimony was granted prior to the disposition hearing.

reasonable inferences in support of its decision. (*In re Calvin S.* (2016) 5 Cal.App.5th 522, 527-528 (*Calvin S.*.)

II. The Applicable Law

To determine the proper disposition for a minor, the juvenile court must consider public safety, victim redress, and the minor's best interests. (§ 202, subd. (d).) The disposition analysis also includes consideration of the minor's "educational, physical, mental health, and developmental-services needs." (Cal. Rules of Court, rule 5.651(b)(2)(D).) The court must also take into account (1) the minor's age, (2) the circumstances and gravity of the minor's offense, and (3) any prior history of delinquency. (§ 725.5.) In addition, the disposition may incorporate punishment where consistent with the minor's rehabilitation and not imposed for purposes of retribution, including commitment to the DJF. (§ 202, subs. (b) & (e).) Before a juvenile ward may be committed to the DJF, the court must be fully satisfied that the mental and physical qualifications of the juvenile are such as to render it probable that he or she will benefit from the commitment. (§ 734.)

The juvenile court's commitment decision will be upheld when the evidence demonstrates a probable benefit to the minor from the commitment and the ineffectiveness or inappropriateness of less restrictive alternatives. (*In re M.S.* (2009) 174 Cal.App.4th 1241, 1250.) The court is not required to state expressly on the record its reasons for rejecting less restrictive placements, but the record must contain some evidence that the court appropriately considered and rejected reasonable alternative placements. (*In re Nicole H.* (2016) 244 Cal.App.4th 1150, 1159.)

III. The Juvenile Court Did Not Abuse Its Discretion by Committing V.H. to DJF

V.H. relies on *Calvin S.*, *supra*, 5 Cal.App.5th 522 in challenging his DJF commitment. In *Calvin S.*, the juvenile court had before it a developmentally disabled 14-year-old minor. In deciding to commit the minor to DJF as opposed to juvenile hall, the juvenile court stated that juvenile hall was “ ‘not a treatment center,’ but ‘a detention center.’ ” (*Calvin S.*, *supra*, 5 Cal.App.5th at p. 529.) Our colleagues in Division Seven held the juvenile court’s statement by itself was not substantial evidence that a less restrictive placement was inappropriate. (*Ibid.*) To the extent the juvenile court meant the minor would not have access to educational and rehabilitative services in juvenile hall, the appellate court concluded the record did not support the juvenile court’s findings because the minor was already receiving those services. (*Ibid.*) Thus, the juvenile court abused its discretion in ordering the minor committed to DJF. (*Id.* at p. 532.)

V.H. maintains the record shows that he, like the minor in *Calvin S.*, was already benefitting from the educational and rehabilitative services offered at juvenile hall. He would continue to receive those services both in a long-term placement there and upon his release into the community. He contends DJF’s gang-related violence not only threatened his well-being, but also undermined any meaningful chance he may have of being rehabilitated. He asserts he may not be provided with the necessary continuity of care upon his release into the community.

V.H.’s reliance on *Calvin S.* is misplaced. In contrast to *Calvin S.*, the juvenile court here did not order DJF commitment, because it believed that juvenile hall was not an available option,

or misperceived the services V.H. was currently receiving at juvenile hall or could receive there in the future. Instead, the juvenile court reasonably exercised its discretion, based on the evidence presented, that DJF would provide more structure and specialized treatment than juvenile hall, and that such structure and treatment were necessary for V.H.

At the time of the disposition, the juvenile court had before it an intelligent⁵ 18-year-old youth, who had persisted in engaging in combative and uncontrollable misconduct, despite prior attempts at rehabilitation in less restrictive environments. His record at both such placements, juvenile hall and camp, is replete with reported incidents of belligerent and assaultive behavior apart from those that led to the two section 777 petitions. The incidents at juvenile hall occurred even after V.H. was repeatedly admonished by his probation officer and the juvenile court to refrain from such aggression, which endangered not only other youths, but also supervising adults. In addition, because of V.H.'s apparent lack of insight into his behavior and his corresponding and longstanding need for an anger management program not offered at juvenile hall, the court reasonably found that continued placement there would be ineffective. (See *In re Asean D.* (1993) 14 Cal.App.4th 467, 473 [minor's refusal to take responsibility for his actions rendered less restrictive setting inappropriate].)

Substantial evidence supported the juvenile court's finding that V.H. would benefit from the DJF's secure and controlled setting and particular resources. More specifically, V.H. acknowledged to his probation officer that he needed to reside in

⁵ The parties both characterize V.H. as intelligent.

a room by himself, which, unlike juvenile hall, was the designated housing for DJF's general population. DJF also offered an anger management program, substance abuse classes, gang awareness classes, and high school, vocational, and college courses appropriate for V.H.'s mental and physical health and educational needs.

The record showed V.H. had never taken responsibility or otherwise been held accountable sufficiently for his misconduct. As part of its dispositional order, the juvenile court expressly requested that V.H. be considered for fire camp. Earning eligibility for fire camp and/or an earlier parole board date through good behavior, would provide positive accountability—an objective V.H. did not achieve in prior placements. The record supports the juvenile court's conclusion that placement in DJF was in V.H.'s best interest. To be sure, the gang-related violence was still present at DJF, but there was evidence that it was on the decline. Indeed, V.H.'s own witness—Daniel Macallair—testified about 2012 research reporting that DJF staff and youths felt safe at the facilities and that youths did not feel pressured to join gangs.

We acknowledge the sad circumstances that have accompanied V.H. from his earliest days. We do not intend our ruling to minimize the hurdles V.H. has faced in his youth. These circumstances, however, do not detract from a record demonstrating that the juvenile court's dispositional order committing V.H. to the DJF was supported by substantial evidence and was not an abuse of discretion.

DISPOSITION

The dispositional order is affirmed.

NOT TO BE PUBLISHED.

BENDIX, J.

We concur:

ROTHSCHILD, P. J.

JOHNSON, J.