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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION THREE

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

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THE PEOPLE,

Plaintiff and Respondent,

v.

B.H.,

Defendant and Appellant.

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B241067

(Los Angeles County  
Super. Ct. No. FJ49556)

APPEAL from an order of the Superior Court of Los Angeles County,  
Robin Miller Sloan, Judge. Affirmed with directions.

Jonathan E. Demson, 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 Analee  
J. Brodie, Deputy Attorneys General for Plaintiff and Respondent.

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Bruce H. appeals the order declaring him a ward of the court under Welfare and Institutions Code section 602 based on his admission he committed grand theft auto (Pen. Code, § 487, subd. (d)(1)) and the juvenile court's finding he committed second degree robbery (Pen. Code, § 211). The juvenile court ordered Bruce H. placed home on probation. We order the maximum term of confinement stricken from the juvenile court's minute order of the disposition hearing and otherwise affirm the order under review.

### **BACKGROUND**

Bruce H. admitted a count alleging grand theft auto. With respect to the robbery allegation, the evidence indicated that on October 12, 2011, at 3:50 p.m., Alejandro Pages was working in a restaurant in the Farmer's Market in Los Angeles when the owner of the neighboring restaurant advised him some youths had taken a jar of tips. Pages saw a group of five or six youths, including Bruce H., laughing and sharing money from the tip jar. Pages grabbed Bruce H. because he was holding the empty jar. Bruce H. struggled and punched Pages in the face, at which point Pages released him.

After finding Bruce H. had committed the charged robbery, the juvenile court indicated its intent to allow Bruce H. to remain home on probation. Before making dispositional orders, the juvenile court noted the maximum term of confinement on the two counts would be five years and eight months. Thereafter, the juvenile court ordered Bruce H. home on probation on various terms and conditions, including that he serve 15 days in the Juvenile Alternative Work Service program. Although the juvenile court indicated it was aware the maximum confinement time is set only if a minor "is taken out of the home," the minute order nonetheless reflects a maximum term of confinement of five years, eight months.

### **DISCUSSION**

Bruce H. contends the minute order of the disposition hearing should be modified to delete the maximum term of confinement. Bruce H. asserts he is entitled to a dispositional order that accurately reflects the punishment that may be imposed.

(See *People v. Fry* (1993) 19 Cal.App.4th 1334, 1340.) It appears this contention is well taken.

When a minor is adjudicated a delinquent but is not removed from the physical custody of his or her parent or guardian, the juvenile court is not required to set a maximum term of confinement. (*In re Ali A.* (2006) 139 Cal.App.4th 569, 573; see Welf. & Inst. Code, § 726, subd. (d).) If the juvenile court does set a maximum term of confinement, it has no legal effect. (*In re Ali A., supra*, at p. 974.)

Here, the juvenile court indicated it was aware the maximum confinement time is set only if a minor “is taken out of the home . . . .” Nonetheless, the minute order reflects a maximum term of confinement of five years, eight months.

Given that the juvenile court did not set the maximum confinement time but merely observed the “aggregate maximum exposure would be five years, eight months,” we shall order the minute order of the disposition modified to strike the maximum term of confinement. (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 541.)

#### **DISPOSITION**

The maximum term of confinement is ordered stricken from the minute order of the disposition hearing. In all other respects, the order declaring Bruce H. a ward of the court within the meaning of Welfare and Institutions Code section 602 is affirmed.

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KLEIN, P. J.

We concur:

CROSKEY, J.

KITCHING, J.