

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

In re L.S., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

L.S.,

Defendant and Appellant.

A126893

(Contra Costa County
Super. Ct. No. J0900673)

I. INTRODUCTION

After a consolidated dispositional hearing, appellant L.S., then 17 years old, was ordered detained in the county's juvenile facilities and to participate in the Youthful Offender Treatment Program (YOTP) for a period not to exceed three years and eight months, i.e., until he turned 21. The juvenile court also continued various other probation conditions to be enumerated below. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, he appeals and asks this court to review the record and determine if there are any issues deserving of further briefing. We have done so, find none, and hence affirm the juvenile court's dispositional ruling.

II. FACTUAL AND PROCEDURAL BACKGROUND

On October 17, 2007, appellant, then 15 years old, was adjudged a ward of the court in Alameda County for a felony violation of Health and Safety Code section 11350

(possession of designated controlled substances). A few months later, on January 29, 2008, a subsequent Welfare and Institutions Code section 602 petition was filed in the same court. It originally charged three counts, but on April 1, 2009,¹ was amended to add three more counts. Those six counts charged two violations each of Penal Code sections 12025, subdivision (a)(2) and 148, subdivision (a)(1), and single violations of sections 12025, subdivision (a)(2), and 12101, subdivision (a)(1). On April 27, appellant admitted a violation of section 148, and was adjudged a ward of the court; the remaining counts were dismissed.

The minor's wardship was then transferred to Contra Costa County for disposition. On May 18, that court placed appellant on probation in his mother's home. Among other conditions of probation, appellant was ordered to submit to drug testing.

On July 6, the prosecution filed a notice of probation violation, alleging that appellant had tested positive for both marijuana and cocaine on June 19. On August 13, the court placed appellant on electronic monitoring until the next hearing date; that order was continued in effect on August 27.

On September 9, the prosecution amended its probation violation notice to include allegations that the minor had tested positive for cocaine, marijuana and other opiates on August 12. That notice was later amended to remove the specifically-named controlled substances and substitute, in their place, the term "illegal drugs."

On September 14, appellant admitted the probation violation; his electronic monitoring was ordered continued, and the matter was continued for a dispositional hearing on September 30.

In the interim, i.e., on September 17, a "transfer-in" petition from Alameda County was accepted and set for disposition on the same date, i.e., September 30. That petition was sustained on August 25 in Alameda County after appellant admitted a violation of Vehicle Code section 2800.2 (evading the police while driving recklessly).

¹ Unless otherwise stated, all further dates noted are in 2009.

On September 22, a new notice of probation violation was filed in the Contra Costa County juvenile court; it alleged that appellant had removed his ankle transmitter and left his mother's home without approval. The following day, September 23, at a jurisdictional hearing, the minor admitted that violation also. The petition was sustained at a second jurisdictional hearing on September 29, when the court heard testimony from several witnesses regarding the drugs appellant had been taking. The court ordered appellant to be detained in Juvenile Hall pending a dispositional hearing. He was screened for, but not admitted to, the Drug Court program.

A dispositional hearing was held commencing on October 19 and concluding on November 4. At the first day of the hearing, appellant's counsel introduced into evidence a number of appellant's medical records, including those relevant to injuries he suffered when, in connection with his January 2008 detention in Alameda County, he had been shot in the neck by the Oakland police. That counsel and the prosecution discussed the appropriate remedy with the court. Appellant's counsel stressed his client's pain, and argued that such could not be adequately managed if he were kept in juvenile placement, i.e., outside his home (then in Antioch). The prosecution stressed appellant's numerous arrests and offenses, his admitted violation of numerous probation conditions (including his removal of his electronic monitor), as well as his apparent addiction to cocaine, and concurred in the probation department's recommendation of out-of-home placement for appellant.

The court then commented that the probation report revealed "an alarming pattern of lies about his drug use" by appellant and indicated it was inclined to remove appellant from his mother's home, but nevertheless had some concerns about whether his continuing medical needs could and would be met by the County. It thus ordered the matter continued so that a representative of the Probation Department's "placement committee [could] come back and tell me whether or not these medical conditions can be dealt with" during the proposed placement.

At the continued dispositional hearing on November 4, both counsel and the court discussed the appropriate disposition, given the combination of appellant's ongoing

medical problems, his history of drug use—and lying to the authorities about such—and violations of numerous conditions of probation. The court indicated that the Probation Department had recommended out-of-home placement and the YOTP, and it and counsel then debated whether this would allow appellant to receive the necessary medical treatment. The court, citing both a meeting with one Probation Department representative and two written reports received from the Probation Department, concluded that it would. After further discussion, the court ordered appellant confined to a “county institution for a period not to exceed the maximum custody time of three years, eight months, or until age 21, whichever occurs first,” and scheduled a review of the matter for nine months later, i.e., in August 2010. Appellant was also ordered to participate in the YOTP during his detention and “successfully complete all phases of [that] program.” It also continued in effect all previous probation conditions (including the condition that he not be in Alameda County unless under the direct supervision of his parents), and ordered that appellant’s driving privileges be suspended for six (6) months commencing August 27.

Appellant filed a timely notice of appeal on November 20.

III. DISCUSSION

We have carefully examined the record of the juvenile court, especially the reporters’ transcripts of the dispositional hearings on October 19 and November 4. We conclude that the juvenile court carefully considered the appropriate disposition to be accorded appellant, and did so after hearing from appellant’s counsel and considering letters to the court from both appellant and his mother, and the two Probation Department memoranda submitted to it. The court clearly exercised its discretion appropriately and, especially considering (1) the numerous offenses committed by appellant, (2) the numerous violations of probation conditions imposed both by the Contra Costa County and the Alameda County juvenile courts, and (3) appellant’s repeated untruthfulness about his use of cocaine, the juvenile court’s order regarding appellant’s detention and required participation in the YOTP appears appropriate.

We find no issues deserving of further briefing.

IV. DISPOSITION

The juvenile court's dispositional order is affirmed.

Haerle, J.

We concur:

Kline, P.J.

Richman, J.