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

**In re B.G.M., a Person Coming Under
the Juvenile Court Law.**

THE PEOPLE,

Plaintiff and Respondent,

v.

B.G.M.,

Defendant and Appellant.

A129163

**(Mendocino County
Super. Ct. No. 101459217)**

B.G.M. appeals from the juvenile court's dispositional order placing him on probation. His attorney has filed a brief seeking our independent review of the record, pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (see *Anders v. California* (1967) 386 U.S. 738), in order to determine whether there is any arguable issue on appeal. We find no arguable issue and affirm.

I. FACTS AND PROCEDURAL HISTORY

A wardship petition filed in January 2006 under Welfare and Institutions Code section 602 alleged that appellant, then 13 years of age, possessed a knife on school grounds and threatened to stab another student. Appellant admitted the allegations, was declared a ward of the juvenile court, and was placed on juvenile probation.

A petition filed in November 2006 alleged that appellant had again possessed a knife on school grounds. Appellant admitted this allegation, and his placement on probation was continued.

In June 2007, a new petition was filed, alleging that appellant had been suspended from school. Appellant admitted the allegation. The petition also noted that appellant was wearing blue clothing and had a new tattoo of three red dots on his left hand between the thumb and forefinger. Appellant was again declared a ward of the court and granted probation on numerous conditions, including “gang terms” prohibiting him from being a member of a criminal street gang, associating with or benefitting a gang, associating with any person known to him as a gang member or frequenting gang areas, or having any indicia of gang membership.

A new petition was filed against appellant in September 2007, alleging that he was found in the presence of a known street gang member and had committed certain offenses. Appellant admitted being with a known gang member and admitted the violation of his probation.

In connection with another petition filed in October 2007, the juvenile probation department reported that appellant continued to associate with known Sureno street gang members and “glorifies the gang lifestyle and is easily influenced by these individuals.”

In June 2008, yet another petition alleged that appellant had been suspended from school. The probation report advised that appellant had been involved in three different gangs.

Other petitions followed, including petitions filed in July 2008, December 2008, and February 2009. Appellant’s sixteenth juvenile petition was filed in February 2010. He was placed on probation for an admitted violation of Penal Code section 496, subdivision (a).

Appellant’s seventeenth juvenile petition – the one at issue here – was filed on June 30, 2010. This petition alleged that appellant had violated the terms of his probation by violating the law and breaking his curfew, and had operated a motor vehicle without a

license (Veh. Code, § 12500, subd. (a)). According to the detention report, appellant had driven a vehicle without a driver's license at 1:35 a.m. on June 29, 2010.

In court on July 1, 2010, while represented by his attorney, appellant admitted the allegations of the petition after being advised of his rights and knowingly waiving them. His attorney concurred with the admission and waivers. Appellant's declaration provided the factual basis for his admission.

In his declaration, appellant stated that he had his mother's permission to stay at the home of "Crystal" for the night of June 28, 2010. However, in the middle of the night Crystal told appellant and Ethan Bauer (Crystal's brother and appellant's friend) to leave the apartment. According to appellant, Bauer had previously testified against gang members and was therefore subject to attack on sight by any Norteno gang member. (Appellant asserted that his attorney determined that Bauer had been in a witness protection program in Hawaii.) Appellant considered walking home, but concluded this would be unsafe because he might be caught violating his curfew or be attacked with Bauer. He decided to drive across town to get a cellular telephone charged so he could call his mother, but he was stopped on the way by police, on suspicion of driving a stolen vehicle.

Appellant claimed in his declaration that he was not a gang member. Although he had "hung out" with members of the Sureno groups three years prior, he had never been "jumped in" or committed any crime for the benefit of a gang, and he was no longer interested in gang involvement. Appellant thought being with Bauer was "alright" because Bauer had cooperated with police, thereby becoming "a 'declared' enemy of gangs." Appellant asked that the court require that he stay away from Bauer and the area where Crystal lived, but that it not impose "gang terms."

The juvenile probation department's report recommended, among other things, imposition of gang terms in connection with appellant's probation. The report explained: "The Probation Department is also concerned with whom [appellant] was associating with during this offense. When contacted, [appellant] was in the company of a well-known and well-documented Norteno criminal street gang member. . . . This association

is concerning due to the inherent violence created when in the presence of a person involved in street gang activities. When on probation previously, [appellant] was ordered to abide by gang terms to prevent such involvement and associations. The Probation Department will be recommending he once again be ordered to abide by such terms to discourage the continued involvement or association with criminal street gangs.”

A dispositional hearing was held on July 15, 2010. Appellant’s attorney contended the evidence was insufficient to support a “gang clause.”

The juvenile court ruled that appellant would remain a ward of the court under Welfare and Institutions Code section 602 and continued his placement on probation. The terms and conditions of his probation included gang terms, which prohibited appellant from being a member of a criminal street gang or acting in furtherance of or benefit to such a gang, associating with any person he knew to be a gang member or frequenting a known gang area, possessing any indicia of gang involvement, or obtaining new gang-related markings of his body.

This appeal followed.

II. DISCUSSION

Appellant’s counsel represented in the opening brief in this appeal that she wrote to appellant and advised him of the filing of a *Wende* brief and his opportunity to file his own supplemental brief within 30 days. We have not received any supplemental submission from appellant.

We find no arguable issues on appeal. There are no legal issues that require further briefing.

III. DISPOSITION

The order is affirmed.

NEEDHAM, J.

We concur.

JONES, P. J.

SIMONS, J.

In re B.G.M. (A129163)