

NOT TO BE PUBLISHED IN OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 FOUR

In re C. M., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

C. M.,

Defendant and Appellant.

A118796

(Contra Costa County
Super. Ct. No. J0700769)

The minor admitted misdemeanor allegations of brandishing a weapon (Pen. Code, § 417, subd. (a)(1))¹ and making a criminal threat (§ 422); she was declared a ward of the court and placed with her mother. The juvenile court determined the maximum period of confinement to be one year, four months. Two later probation violations did not alter the maximum term of confinement.

On appeal, the minor contends that the trial court incorrectly calculated her maximum period of confinement.² The maximum sentence for making a criminal threat is one year in county jail for an adult (§ 422) and for brandishing it is six months in

¹ All further section references are to the Penal Code.

² Since the underlying facts of the offenses and subsequent probation violations are not at issue, we do not summarize them here.

county jail. (§§ 417, subd. (a)(1), 19.) Pursuant to the California Supreme Court opinion in *In re Eric J.* (1979) 25 Cal.3d 522, 538, in calculating the maximum term of confinement for a juvenile, the court must apply the provisions of section 1170.1, subdivision (a) both to misdemeanor and felony violations, and thus the maximum term of confinement for a subordinate misdemeanor term is limited to one-third of the proscribed maximum sentence for an adult offender. (See also *In re Deborah C.* (1981) 30 Cal.3d 125, 140.) Thus, in the present case, the minor's maximum term of confinement would be a total of one year, two months, calculated as one year on the making a criminal threat allegation, plus one-third of six months, or two months, on the brandishing charge.

Respondent concedes that the trial court erred in calculating the minor's maximum term of commitment, as indicated above. We accept the concession and order that the minor's maximum term of confinement be reduced from one year, four months to one year, two months. In all other respects, the judgment is affirmed.

Sepulveda, J.

We concur:

Ruvolo, P.J.

Reardon, J.