

NOT TO BE PUBLISHED IN OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

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

THE PEOPLE,

Plaintiff and Respondent,

v.

J.M.,

Defendant and Appellant.

A133399

**(City and County of San Francisco
Super. Ct. No. J11-6015)**

The juvenile court found that the minor, J.M., committed robbery and imposed a probation condition prohibiting him from possessing weapons. J.M. appeals from the juvenile court's decision, contending there is no substantial evidence of the element of robbery requiring the use of force or fear in the taking. He also contends the probation condition violates his due process rights, as it is vague and overbroad. We agree there was insufficient evidence of force and fear and remand the case for a new disposition hearing.

FACTUAL AND PROCEDURAL BACKGROUND

In March 2011, 16-year old J.M. was first declared a ward of the juvenile court after he admitted felony counts of grand theft (Pen. Code, § 487, subd. (c)) and assault

with a deadly weapon (Pen. Code, § 245, subd. (a)(1)). The juvenile court ordered out-of-home placement at the San Francisco Boys & Girls Home. J.M. was terminated from the program on June 30, 2011, after he ran away, and the juvenile court issued a warrant for his arrest.

J.M. was arrested on a new robbery charge on August 22, 2011. The next day, the District Attorney filed a juvenile wardship petition (Welf. & Inst. Code, §§ 602, subd. (a), 726), alleging a felony count of second degree robbery (Pen. Code, §§ 211, 212.5, subd. (c)), specifically, that J.M. took an Apple iPhone from the person, possession, and immediate presence of Bao L. (the victim). The petition was amended thereafter to add a second misdemeanor count of resisting arrest (Pen. Code, § 148, subd. (a)(1)).

At a contested jurisdictional hearing on September 21, 2011, the following evidence was presented:

The victim testified that at 9:00 a.m. on August 22, 2011, she was sitting at a bus stop in San Francisco. She had just ended a phone call and was holding her iPhone tightly in her right hand, when someone approached from her left side, “took [her] phone and ran up the hill.” She did not see the suspect before he took her phone and did not see where he came from.

The victim demonstrated for the juvenile court that she was “holding the phone in her right hand [with] her fingers on the bottom part of the phone and her thumb . . . on the top of the phone” Her right arm was bent, and she was “holding [her] phone kind of close to [her] chest area . . . ,” with her hand covering more than half of the phone. The suspect wrapped his hand around the top of the phone, grabbed it, and ran. When he grabbed the phone, he did not touch the victim’s hand or any part of her body, and her arm did not move at all. The victim stated she was scared “[b]ecause I don’t know what happened.”

The victim did not pursue the suspect “[b]ecause he ran really fast.” The victim noticed his build and clothes; he was wearing a black jacket and blue jeans. The lady sitting next to the victim helped her call the police.

San Francisco police officer Kwan testified that he responded to a robbery call on the morning of August 22, 2011. While searching the area, he heard another officer broadcast the location of a boy matching the suspect's description, and when he responded, he saw J.M. running fast, then slow down suddenly "as if he was trying to act natural." J.M. was "breathing heavy [and] sweating heavy." When Officer Kwan and his partner, Officer Silveira, headed in J.M.'s direction, J.M. ducked down suddenly next to a car. Officer Kwan got out of his patrol vehicle, made face-to-face contact with J.M. and told him: "Hold it right there." J.M. "took off running" Officer Kwan ran after J.M., and Officer Silveira drove alongside him in the patrol car. Officer Silveira positioned the patrol car so that it blocked J.M.'s path. As he did so, "a phone came flying out of [J.M.'s] right hand onto the ground. [J.M.] . . . jumped onto and over the rear trunk of the police car and he kept running." Shortly thereafter, another officer tackled J.M., and J.M. was handcuffed. Officer Silveira recovered the phone that J.M. dropped. The victim later identified the phone as the one that was taken from her, and identified J.M. as the one who took it.

J.M. was interviewed in the presence of his mother after he was informed of his Miranda rights. He admitted "tak[ing] the iPhone from a lady who was seated at the bus shelter" He said "the iPhone was in her hand and he ran by and grabbed the iPhone from her hand," then ran westbound. He said that when police confronted him and told him to stop, he ran from them.

The juvenile court found true both counts alleged in the amended petition. At an October 5, 2011 disposition hearing, the court redeclared wardship, committed J.M. to the Log Cabin Ranch School, and imposed several probation conditions, including one prohibiting him from possessing weapons (weapons condition).

J.M. filed a timely notice of appeal, purporting to appeal from the juvenile court's September 21, 2011 order sustaining count one of the amended petition. The court's jurisdictional order is not appealable, but error in the jurisdictional proceeding is reviewable on appeal from the court's dispositional order. (*In re Shaun R.* (2010) 188 Cal.App.4th 1129, 1138; *In re Jennifer V.* (1988) 197 Cal.App.3d 1206, 1209.)

Accordingly, we construe J.M.'s notice of appeal as from the juvenile court's October 5, 2011 dispositional order. (*In re Bettye K.* (1991) 234 Cal.App.3d 143, 148, fn. 3.)

DISCUSSION

I. The Juvenile Court's Robbery Finding

J.M. contends the evidence is not sufficient to support a finding that he committed robbery. In evaluating this contention, we “must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence—that is, evidence which is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.” (*People v. Johnson* (1980) 26 Cal.3d 557, 578.) “[T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’ [Citation.]” (*Id.* at p. 576, quoting *Jackson v. Virginia* (1979) 443 U.S. 307, italics omitted.) In making this determination, we “ ‘presume every fact in support of the judgment the trier of fact could have reasonably deduced from the evidence.’ ” (*People v. Wilson* (2008) 44 Cal.4th 758, 806.)¹

Penal Code section 211 sets forth the elements of robbery: “Robbery is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear.” Robbery consists of two components; gaining possession of the victim's property and carrying it away. (*People v. Cooper* (1991) 53 Cal.3d 1158, 1165.) In order to support a conviction for robbery, the taking, either the gaining possession or the carrying away, must be accomplished by force or fear. (*People v. Gomez* (2008) 43 Cal.4th 249, 257.) In the absence of force or fear, a taking from the person is grand theft, not robbery. (*People v. Morales* (1975) 49 Cal.App.3d 134, 139.)

¹ The same standard of review applies to a claim of insufficiency of the evidence in juvenile proceedings involving criminal acts and adult criminal trials. (*In re Roderick P.* (1972) 7 Cal.3d 801, 809.)

J.M. contends the evidence was insufficient to establish the elements of robbery because it does not support a finding he used force or fear to take the victim's iPhone. We agree. There is no evidence that, to accomplish the taking here, J.M. used the force required to establish robbery. “ ‘[S]omething more is required than just that quantum of force which is necessary to accomplish the mere seizing of the property.’ [Citation.]” (*People v. Burns* (2009) 172 Cal.App.4th 1251, 1259 (*Burns*), quoting *Morales, supra*, 49 Cal.App.3d at p. 139.) “ ‘[W]hen actual force is present in a robbery, at the very least it must be a quantum more than that which is needed merely to take the property from the person of the victim’” (*Burns*, at p. 1259.) There is no evidence here that J.M. used force beyond that necessary to take the victim's iPhone from her hand. Indeed, she stated that, when J.M. grabbed her phone, he did not touch her hand or any part of her body and did not even cause her arm to move. (Compare *People v. Mungia* (1991) 234 Cal.App.3d 1703, 1706-1707 [evidence sufficient for robbery although the victim did not see or hear the defendant before he took her purse, where he shoved her and in a separate motion, took her purse off her shoulder].)

Nor is there any evidence that reasonably supports an inference J.M. used fear to accomplish the taking. The evidence demonstrates only that he appeared suddenly, grabbed the phone from the victim's hand, and ran away. There is no evidence he threatened or intimidated the victim or that the victim surrendered her phone because she was afraid. Indeed, she stated that she did not see J.M. before he took her phone. She said the incident scared her “[b]ecause I don't know what happened.” Being startled, however, does not appear to satisfy the fear requirement for robbery. (Pen. Code, § 212 [defining “fear” as it is used in Pen. Code § 211 to mean fear of an unlawful injury].)² There is no evidence that J.M. used the victim's fear of such injury to accomplish the taking or to prevent the victim from recovering her phone. Although she acknowledged

² Penal Code section 212 states: “The fear mentioned in Section 211 may be either: 1. The fear of an unlawful injury to the person or property of the person robbed, or of any relative of his or member of his family; or, 2. The fear of an immediate and unlawful injury to the person or property of anyone in the company of the person robbed at the time of the robbery.”

that she was “still scared at that time,” she did not attribute her decision not to pursue J.M. to her fear. When the prosecutor asked her: “[W]hy didn’t you run after the person that took your phone?” she responded simply: “Because he ran really fast.”

In concluding that the evidence established robbery, the juvenile court relied on *People v. Lescallett* (1981) 123 Cal.App.3d 487. *Lescallett* does not support a finding that J.M. committed robbery here, for three reasons. First, the decisions on which the *Lescallett* court relies do not demonstrate that “hasty snatching without resistance,” without more, may constitute robbery, as the Attorney General appears to contend. The court stated: “The nonconsensual snatching of a purse has been held to entail such force as to permit a jury to return a verdict of robbery. ‘Where property is snatched from the person of another . . . the crime amounts to robbery.’ ” (*Id.* at p. 491, quoting *People v. Jefferson* (1939) 31 Cal.App.2d 562, 567 [“Where property is snatched from the person of another or procured by threats of bodily harm or under circumstances reasonably creating grave apprehension on the part of the owner of receiving bodily injury at the hands of the thief, the crime amounts to robbery”].) None of the decisions on which the *Jefferson* court relies purport to hold that snatching property from the person of another is enough alone to constitute robbery. The court in *Lescallett* also quoted from *People v. Church* (1897) 116 Cal. 300, for the proposition: “ ‘ “If another feloniously takes it [a watch chain] from him against his will, by violence – by force snatches it and runs away with it – it is robbery” ’ ” (*Lescallett, supra*, 123 Cal.App.3d at p. 491.) In *Church*, however, this language appears as part of an instruction that the court found to be reversible error. (*Church*, at p. 302.) As the remainder of the quotation makes clear, *Church* holds simply that whether a taking constitutes robbery is “dependent upon the absence or presence of the use of force in the taking” (*Church*, at pp. 302-303; accord, *Lescallett*, at p. 491.)

Second, in the decisions on which the *Lescallett* court relies, unlike this case, there was evidence supporting a finding that the defendant used force or fear in the taking beyond that necessary to accomplish the taking. (See *Jefferson, supra*, 31 Cal.App.2d at p. 567 [use of deadly weapon and a threat to “ ‘bump off’ ” the victim]; *People v. Roberts*

(1976) 57 Cal.App.3d 782, 785, 787 [“Certainly, the evidence that the purse was grabbed with such force that the handle broke supports the jury’s implied finding that such force existed”], disapproved on another ground in *People v. Rollo* (1977) 20 Cal.3d 109, 120, fn. 4; *People v. Welch* (1963) 218 Cal.App.2d 422, 423 [defendant grabbed the victim by the neck and broke the wristband of the watch in taking it from his wrist]; *Church, supra*, 116 Cal. at pp. 301-302 [evidence that there was “some difficulty” or “some trouble” between Church and the victim, that Church grabbed for the watch chain, and that the victim “start[ed] back, and his hat fell off, and Church made a break to the door”].)

Finally, the circumstances at issue in *Lescallett* are distinguishable. In that case, the victim saw the defendant running toward her before she felt her purse being snatched from her hand, and testified that she was frightened when it happened. (*Lescallett, supra*, 123 Cal.App.3d at pp. 491-492.) In this case, as the victim stated that she did not see J.M. approach, she could not have experienced fear of unlawful injury at his hands.

Relying on *Roberts, supra*, 57 Cal.App.3d 782, the Attorney General contends: “[This] distinction fails as a robbery victim need not be aware of the defendant’s presence before the taking.” In *Roberts*, however, the issue was not whether the defendant had used fear to accomplish the taking; the court concluded, rather, that evidence he snapped the purse off at the handle supported a finding he had used sufficient force for robbery. (*Id.* at p. 787.) The Attorney General maintains that J.M. “exert[ed] what inferably must have been a forceful pull because of [the victim’s] tight grasp on the phone.” We do not agree that evidence the victim was grasping her phone tightly is sufficient to support an inference that J.M. used more force than necessary to seize the phone, particularly in light of other evidence that the seizure did not cause any movement of the victim’s arm. (*Burns, supra*, 172 Cal.App.4th at p. 1259.)

The Attorney General also argues: “No fear or anticipation is required so long as the force is ‘actually sufficient to overcome the victim’s resistance.’ [Citation.]” (See *Burns, supra*, 172 Cal.App.4th at p. 1257 [robbery “where a person wrests away personal property from another person, who resists the effort to do so”].) But there is no evidence in this case that the victim offered any resistance. (Compare *id.* at p. 1255 [the victim

held on to her purse, but the defendant overcame her resistance with his strength and stepped on her toe]; *People v. Cooksey* (2002) 95 Cal.App.4th 1407, 1410 [the defendant grabbed the victim and the two struggled over her purse for two minutes].)

As substantial evidence does not support the force or fear element of robbery, the juvenile court's robbery finding cannot stand. Accordingly, we modify the judgment to find that J.M. committed the lesser included offense of grand theft (Pen. Code, § 487, subd. (c)), and remand the matter to the juvenile court for a new disposition.³ (*Burns, supra*, 172 Cal.App.4th at p. 1256, citing *People v. Ortega* (1998) 19 Cal.4th 686, 694.)

Having so concluded, we turn to J.M.'s challenge to the weapons condition.

II. The Weapons Condition⁴

J.M. contends the weapons condition violates his due process rights because it is vague and overbroad.⁵ This contention presents a question of law that we review independently. (*In re Sheena K., supra*, 40 Cal.4th at p. 888.)

A. *The Weapons Condition at Issue*

³ “When the verdict or finding is contrary to law or evidence, but if the evidence shows the defendant to be not guilty of the degree of the crime of which he was convicted, but guilty of . . . a lesser crime included therein, the court may modify the . . . finding or judgment accordingly without . . . ordering a new trial, and this power shall extend to any court to which the cause may be appealed.” (Pen. Code, § 1181, para. 6.)

⁴ Citing *In re Shaun R., supra*, 188 Cal.App.4th 1129, the Attorney General argues review of the weapons condition is not available because the juvenile court imposed an identical condition in a prior order that is now final. *In re Shaun R.* has no application here. It holds simply that a general provision keeping prior court orders in effect unless inconsistent with the current order does not revive for purposes of appeal a prior order that has become final. In this case, J.M. does not rely on the prior final order in seeking review of the weapons condition; the court specifically imposed this condition in the order at issue in this appeal.

⁵ J.M. did not object below to the weapons condition. In a juvenile case, however, “a failure to object to a probation condition on the ground that it is unconstitutionally vague and overbroad is not waived on appeal.” (*In re H.C.* (2009) 175 Cal.App. 4th 1067, 1070, relying upon *In re Sheena K.* (2007) 40 Cal.4th 875, 889 [facial challenge to probation condition that raises a pure question of law].)

At the disposition hearing, the court advised J.M.: “[Y]ou’re to have no weapons in your possession which means no firearms, no ammunition, nothing that looks like a weapon, can be used as a weapon, or considered by someone to be a weapon.” The following condition also is marked on a preprinted dispositional finding form: “[The minor shall]: Not possess weapons of any kind, which means no guns, knives, clubs, brass knuckles, attack dogs, ammunition, or something that looks like a weapon. You are not to possess anything that you could use as a weapon or someone else might consider to be a weapon.”

J.M. notes “numerous conflicts between the oral pronouncement and the written probation order,” and the parties are uncertain as to whether the juvenile court’s oral pronouncement or its written order controls.⁶ “[W]hen . . . the record is in conflict it will be harmonized if possible; but where this is not possible that part of the record will prevail, which, because of its origin and nature or otherwise, is entitled to greater credence [citation]. Therefore whether the recitals in the clerk’s minutes should prevail as against contrary statements in the reporter’s transcript, must depend upon the circumstances of each particular case.’ [Citations.]” (*People v. Smith* (1983) 33 Cal.3d 596, 599.) Here, the written condition appears on a standard form labeled, “Dispositional Finding” that was prepared by the clerk and signed by the juvenile court. (See Code Civ. Proc., § 1003 [“Every direction of a court or judge, made or entered in writing . . . is denominated an order”].) It appears that the juvenile court was simply explaining the

⁶ J.M. notes: “[T]he oral pronouncement: 1) refers to ‘no weapons,’ as opposed to ‘no weapons of any kind,’ 2) defines the term ‘weapons’ as meaning firearms and ammunition, while the written order defines ‘weapons of any kind’ as including knives, clubs, brass knuckles and attack dogs in addition to firearms and ammunition, and 3) it prohibits the possession of anything that can be used as a weapon, as opposed to anything that appellant himself could use as a weapon.” J.M. maintains there is “substantial debate over whether discrepant oral or written orders are controlling,” and that, in light of this uncertainty, both the oral and written conditions are ambiguous. (Compare *People v. Freitas* (2009) 179 Cal.App.4th 747, 750 [generally, the court’s oral pronouncement, which constitutes the rendition of judgment, controls over a minute order, which is ministerial] with *In re Jennifer G.* (1990) 221 Cal.App.3d 752, 756 [the court’s written order controls].)

terms of its written order to J.M. at the disposition hearing. We therefore conclude that the court's oral pronouncement may be harmonized with its written order; to the extent a conflict exists, the more inclusive written order controls.

B. *Relevant Legal Principles*

In *Sheena K.*, the Supreme Court set forth the principles that govern our analysis here: “[T]he underpinning of a vagueness challenge is the due process concept of ‘fair warning.’ [Citation.] The rule of fair warning consists of ‘the due process concepts of preventing arbitrary law enforcement and providing adequate notice to potential offenders’ [citation], protections that are ‘embodied in the due process clauses of the federal and California Constitutions. (U.S. Const., Amends. V, XIV; Cal. Const., art. I, § 7.)’ [Citation.] The vagueness doctrine bars enforcement of ‘“a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application.”’ [Citation.]’ [Citation.] A vague law ‘not only fails to provide adequate notice to those who must observe its strictures, but also “impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.”’ [Citation.]’ [Citation.] In deciding the adequacy of any notice afforded those bound by a legal restriction, we are guided by the principles that ‘abstract legal commands must be applied in a specific context,’ and that, although not admitting of ‘mathematical certainty,’ the language used must have ‘“reasonable specificity.”’ [Citation.]” (*Sheena K.*, *supra*, 40 Cal.4th at p. 890 (italics omitted).) Thus, “[a] probation condition ‘must be sufficiently precise for the probationer to know what is required of him, and for the court to determine whether the condition has been violated,’ if it is to withstand a challenge on the ground of vagueness. [Citation.] A probation condition that imposes limitations on a person’s constitutional rights must closely tailor those limitations to the purpose of the condition to avoid being invalidated as unconstitutionally overbroad. [Citation.]” (*Ibid.*)

C. *Analysis*

J.M. contends the condition is unconstitutionally vague as it “fails to adequately identify or reasonably regulate the objects that may be encompassed within the prohibition” or “provide a comprehensible reference as to what is prohibited.” It is not clear whether he challenges the portion of the probation condition directing him “[n]ot to possess weapons of any kind,” but we find this portion of the condition constitutionally sufficient. “A statute is not unconstitutionally uncertain if general terms are used therein without definition, where the term is one which is commonly used or understood, or has acquired a well defined meaning.” (See *People v. Horner* (1970) 9 Cal.App.3d 23, 28.) The generic term “weapon” has an accepted, plain, and well-settled commonsense meaning, which reasonable persons can understand. (See Merriam-Webster’s Collegiate Dictionary (11th ed. 2007), p. 1417 [“something (as a club, knife, or gun) used to injure, defeat or destroy”].) We conclude, accordingly, that the meaning of the term “weapon” is sufficiently precise to allow a person of ordinary intelligence to know its character and that this portion of the probation condition passes constitutional muster.

J.M. contends, however, that the weapons condition allows for a probation violation based on his unknowing or unwitting possession of a weapon because it lacks an express provision requiring that he act with knowledge of the violation. A court may not revoke probation unless the evidence demonstrates that the defendant willfully violated the terms and conditions of probation. (*People v. Cervantes* (2009) 175 Cal.App.4th 291, 295.) Nonetheless, a number of courts have held an express knowledge requirement is necessary, reasoning: “While the requirement of proof of willfulness may save [a probationer] from an unconstitutional finding of guilt based on an unknowing probation violation, that is cold comfort to a probationer who suffers from an unfounded arrest and detention based on the whim or vengeance of an arbitrary or mean-spirited probation officer. [Citation.] [¶] Due process requires more. It requires that the probationer be informed *in advance* whether his conduct comports with or violates a condition of probation.” (*In re Victor L.* (2010) 182 Cal.App.4th 902, 913 [“For this reason we will modify the condition of probation to make [the knowledge] requirement explicit”]; see *Freitas, supra*, 179 Cal.App.4th at p. 752 [requirement of knowledge

should be read into probation condition prohibiting possession of firearms because “the law has no legitimate interest in punishing an innocent citizen who has no knowledge of the presence of a firearm or ammunition”). Including an express knowledge requirement also serves to guard against concerns of overbreadth. (*Freitas*, at p. 751 [“ ‘[T]he rule that probation conditions that implicate constitutional rights must be narrowly drawn, and the importance of constitutional rights, lead us to the conclusion that [the knowledge requirement] should not be left to implication’ ”], relying on *People v. Garcia* (1993) 19 Cal.App.4th 97, 102 (*Garcia*); *People v. Patel* (2011) 196 Cal.App.4th 956, 960 [“Since at least 1993, appellate courts have issued opinions consistently holding that conditions of probation must include scienter requirements to prevent the conditions from being overbroad”). Based on this reasoning, we agree that an express knowledge requirement is appropriate here.

J.M. contends language prohibiting him from possessing “anything that [he] could use as a weapon” makes the weapon condition vague and overbroad, as “innocuous objects used in everyday life could be construed as prohibited” He notes: “[I]tems [other than firearms] which could arguably come within the condition have legitimate everyday uses,” such as “[a] baseball bat, a dinner knife, a letter opener, [and] a hammer” We disagree. What transforms an object with innocent uses into a weapon is the user’s intent, a fact particularly within the user’s knowledge. Language precluding possession of “ anything that [J.M.] could use as a weapon” therefore provides adequate notice of what is prohibited. (*People v. Raleigh* (1932) 128 Cal.App. 105, 107.) As we deem this language to restrict possession of otherwise innocent objects only when J.M. intends to use them as weapons, we also conclude that it is sufficiently tailored to the condition’s rehabilitative purpose and does not render the condition unconstitutionally overbroad.

Finally, J.M. contends the court should strike language precluding him from possessing “something that looks like a weapon” or anything that “someone else might consider to be a weapon,” as it restricts his possession of objects regardless of their function or use, and regardless of his intent. He maintains this language makes the

condition “uncertain, subjective, and unworkable because it requires [him] to know what ‘someone else’ . . . might consider to be a weapon” and requires him to “anticipat[e] the unstated opinions of an unknowable number of people” We agree that this language is unconstitutionally vague because it requires J.M. to speculate as to what other people may think. (See *People v. Gabriel* (2010) 189 Cal.App.4th 1070, 1073-1074 [probation condition precluding the defendant from associating with individuals “you know or suspect to be gang members, drug users, or on any form of probation or parole supervision” was not sufficiently specific to provide the defendant with adequate notice of what was expected of him when he lacked actual knowledge that a person fell within one of these categories and was not sufficiently precise for a court to determine whether a violation has occurred]; *Sheena K.*, *supra*, 40 Cal.4th at pp. 880, 891-892 [probation condition requiring defendant not to “ ‘associate with anyone disapproved of by probation,’ ” was unconstitutionally vague because it did not notify the defendant in advance of the persons with whom she could not associate “through any reference to persons whom defendant knew to be disapproved of by her probation officer”].) The language at issue also is overbroad as it impinges upon J.M.’s fundamental constitutional right to possess property, and is not narrowly tailored to the state’s compelling interest in his reformation and rehabilitation. (Cal. Const., art. I, § 1 [inalienable right to acquire, possess, and protect property]; *Garcia*, *supra*, 19 Cal.App.4th at p. 102; *People v. Harrison* (2005) 134 Cal.App.4th 637, 641 [a probation condition is overbroad if it substantially limits the defendant’s rights in a way that is not closely tailored to the condition’s purpose.]

Due to our disposition, we need not decide the constitutionality of the weapons condition. The above discussion is provided for guidance of the juvenile court in case it considers imposing a weapons condition at disposition.

DISPOSITION

The judgment is modified to delete the juvenile court’s robbery finding and reflect instead a true finding of the lesser included offense of grand theft (Pen. Code, § 487, subd. (c)). In light of our disposition, we decline to modify the weapons condition. The

matter is remanded to the juvenile court for a new disposition hearing and order consistent with this opinion.

NEEDHAM, J.

We concur.

SIMONS, Acting P. J.

BRUINIERS, J.