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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re K.D., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

K.D.,

Defendant and Appellant.

A133765

(Contra Costa County
Super. Ct. No. J11-00042)

The juvenile court sustained a petition alleging K.D. committed two counts of misdemeanor resisting arrest in violation of Penal Code Section 69. She was placed on probation. She appeals from the dispositional order of the juvenile court that imposed a probation condition requiring her to submit to warrantless searches and seizures. K.D. argues that the condition is overbroad given the circumstances of her offense. We disagree, and affirm the judgment of the juvenile court.

I. BACKGROUND

On December 15, 2010, K.D. was involved in a fight at school. While she was being escorted to the administration building by a police officer, K.D. looked toward a group of students standing nearby who had been involved in the fight and gestured as though she wanted to continue the fight. The officer ordered K.D. to look forward and walk straight ahead, but K.D. again turned toward the students and continued gesturing. The officer grabbed K.D. by the neck and arm. K.D. resisted and turned toward the

officer, at which point the officer tried to force her to the ground. K.D. resisted by pushing up with her head. A second officer arrived on the scene to assist and K.D. was taken to the ground and arrested. K.D. was charged with two misdemeanor counts of resisting arrest in violation of Penal Code section 69. The charges were sustained on September 29, 2011. The court placed her on probation for one year, citing its concerns not with gangs or drugs but that K.D. finish school. As a condition of probation, K.D. must submit her “person, property, any vehicle under [her] control, and residence to search and seizure by any peace officer at any time of the day or night, with or without a warrant.” K.D. did not object to this condition when it was imposed by the juvenile court. K.D. reported to her probation officer that she experimented with alcohol, and prior to her arrest smoked marijuana almost every day, but claimed to have quit. Her probation officer remained concerned about her admitted use of marijuana and did not believe that she quit using it.

II. DISCUSSION

K.D. argues that the probation condition requiring her to submit to warrantless searches and seizure is unreasonable given the circumstances of her offense, citing *People v. Lent* (1975) 15 Cal.3d 481, 486. The parties dispute whether K.D. preserved this issue for appeal because she did not object to the condition in the juvenile court. Because we will affirm the juvenile court’s decision on the merits, we need not determine whether this issue has been forfeited.

An appellate court will not modify a juvenile court’s probation decisions absent an abuse of discretion. (*In re R.V.* (2009) 171 Cal.App.4th 239, 246.) The juvenile court may “impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.” (Welf. & Inst. Code, § 730, subd. (b).) “A condition of probation will not be held invalid unless it ‘(1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality’ ” (*People v. Lent, supra*, 15 Cal. 3d. at p. 486.) Even if a condition of probation has no

relationship to the crime of which the offender was convicted, it is still valid if it relates to conduct which is criminal or requires or forbids conduct that is reasonably related to future criminality. (See *People v. Olguin* (2009) 45 Cal.4th 375, 379–380.)

Although the warrantless search and seizure condition is not related to K.D.’s conviction for resisting arrest, it is valid because it relates to other criminal conduct and aims to prevent her future criminality. Possession of marijuana (Health & Saf. Code, § 11357) and possession of alcohol by a minor (Bus. & Prof. Code, § 25662, subd. (a)) are criminal offenses. Because K.D. admitted to possessing and using these substances in the past and because her probation officer believes that she has not quit using marijuana, the search condition is reasonably related to preventing and deterring K.D. from criminally possessing these substances. K.D.’s argument that the search condition is an abuse of discretion because the trial judge stated that she did not “have a concern about . . . drugs” is without merit. The juvenile court could have found K.D.’s use of drugs and alcohol troubling enough to impose the warrantless search and seizure condition, even if it was not the trial court’s chief concern.

K.D. attempts to distinguish the facts of this case from those in *In re Binh L.* that justified the imposition of a warrantless search and seizure condition. (*In re Binh L.* (1992) 5 Cal.App.4th 194.) The attempted distinction is unpersuasive. In *Binh L.*, a warrantless search and seizure condition was reasonable because the minor had admitted to automobile theft, “an activity that rationally connotes possession of tools to enter and operate locked automobiles, possession of small articles taken from such automobiles, and other forms of larcenous behavior.” (*Id.* at p. 204.) Similarly, K.D. has admitted to using marijuana and alcohol. Although these are not the offenses for which she was placed on probation, it is certainly reasonable for the juvenile court to want to prevent her from repeating these criminal activities. Admitting use of marijuana and alcohol “rationally connotes” possession of the substances.

We reject K.D.’s contention that her use of marijuana and alcohol does not justify the search condition. In choosing probation conditions, it is appropriate for the court to consider not only the circumstances of the crime at issue but also the minor’s entire social

history. (See *In re Todd L.* (1998) 113 Cal.App.3d 14, 14.) Probation conditions may address other incidents of criminality besides the one that is before the juvenile court. In *In re Kacy S.* a condition requiring minors “ ‘submit to urine testing to determine the presence of alcohol and illegal drugs in [their] system[s]’ ” (*In re. Kacy S.* (1998) 68 Cal.App.4th 704, 707) withstood a *Lent* challenge although the minors were only guilty of fighting in a public place and there was “no previous involvement with alcohol and drugs” in their social histories. (*Id.* at p. 711.)

We also reject K.D.’s contention that her rehabilitation goals are “clearly met” by the court’s other probation conditions, “specifically that K.D. not use or possess illegal drugs or alcohol; submit to drug and alcohol testing, and report all police contact within twenty-four hours.” Under an abuse of discretion standard, we strongly defer to the judgment of the trial court in deciding which conditions clearly meet the reformatory and rehabilitative goals of the juvenile justice system.

III. DISPOSITION

The judgment of the juvenile court is affirmed.

Siggins, J.

We concur:

McGuinness, P.J.

Pollak, J.