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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

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

THE PEOPLE,

Plaintiff and Respondent,

v.

R.L.,

Defendant and Appellant.

A133926

(Del Norte County Super. Ct.
No. JDSQ116160)

After a contested jurisdictional hearing, the juvenile court sustained a wardship petition (Welf. & Inst. Code, § 602, subd. (a)) alleging defendant R.L. committed nine acts of vandalism (Pen. Code, § 594, subd. (a)(2)). The juvenile court made defendant a ward of the court and placed him on formal probation in the custody of his mother, subject to a number of probation conditions. Presumably, due to signs defendant had abused drugs, the court imposed a condition that defendant “shall not possess any paraphernalia, pictures, clothing, or other miscellaneous items whose chief purpose is to promote drug or alcohol use.” There was no objection to the condition. Defendant appeals from the dispositional order of the court, contending this probation condition is unconstitutionally vague because it does not give him fair notice of what items he may or may not possess. He also contends the condition is unconstitutionally overbroad because it interferes with his First Amendment right of free speech. We disagree and affirm.

I. FACTS

On August 8, 2011, a Del Norte County Sheriff's deputy responded to a report of vandalism to vehicle tires. At the scene, he saw "somewhere around fourteen" cars "within a half-mile circumference" that had punctured tires. Some cars had one punctured tire, some two or three.

A week later, the deputy received information which led him to defendant. A day or two later, the deputy spoke to defendant at defendant's home. Defendant admitted slashing the tires of 13 or 14 vehicles with a box cutter. One of the vehicles was a sheriff's department search-and-rescue vehicle.

The probation report indicates defendant, who was thirteen years old, had been angry over the recent death of his grandfather, to whom he was "very close." Defendant told the probation officer his anger over the death had been under control for four days, "then it just came out that night," i.e., the night of the offenses. The report also showed there were signs defendant used drugs. Defendant also had difficulty obeying the rules at school, and had damaged school property.

II. DISCUSSION

A juvenile court has broad discretion to impose probation conditions, which may be broader than those imposed for adult offenders. (*In re R.V.* (2009) 171 Cal.App.4th 239, 246–248.) "This is because juveniles are deemed to be more in need of guidance and supervision than adults, and because a minor's constitutional rights are more circumscribed. [Citation.]" (*Id.* at p. 247.) " '[T]he juvenile court may impose probation conditions that infringe upon constitutional rights if the conditions are tailored to meet the needs of the minor.' " (*Id.* at p. 248, citing *In re Antonio C.* (2000) 83 Cal.App.4th 1029, 1034.) " '[A] condition of probation that would be unconstitutional or otherwise improper for an adult probationer may be permissible for a minor under the supervision of the juvenile court. . . .' [Citation.]" (*In re Shaun R.* (2010) 188 Cal.App.4th 1129, 1142.)

We will not disturb the juvenile court’s broad discretion absent an abuse of that discretion, which is vested in the juvenile courts to further their rehabilitative function. (*In re Walter P.* (2009) 170 Cal.App.4th 95, 100.)

Defendant contends the probation condition is unconstitutionally vague. The test for unconstitutional vagueness is whether or not the probation condition is “sufficiently precise for the probationer to know what is required of him, and for the court to determine whether the condition has been violated.” (*People v. Reinertson* (1986) 178 Cal.App.3d 320, 324–325; see *In re E.O.* (2010) 188 Cal.App.4th 1149, 1153.) Probation conditions are interpreted with common sense and in context. (*In re Ramon M.* (2009) 178 Cal.App.4th 665, 677.) The ultimate question is whether ordinary people can understand what behavior is prohibited by the condition. (*In re Byron B.* (2004) 119 Cal.App.4th 1013, 1018.)

Defendant contends the probation condition at issue here is vague because it does not give him adequate direction as to what items he may not possess. Using the example of a T-shirt with a marijuana leaf, he claims its “chief purpose” is to cover and warm the body and the conveying of some message regarding marijuana use is secondary. Using examples of marijuana posters or a necklace with a marijuana leaf, he argues their “chief purpose” would be to cover walls and adorn the body, respectively. Finally, he argues depictions of marijuana leaves “may also legitimately be interpreted as a statement in support of marijuana legalization, medical marijuana, or industrial hemp or simply an expression of identity with the cultural associations connected to the symbol of a marijuana leaf.”

But the juvenile court did not prohibit defendant from warming his body with T-shirts, adorning his walls with posters, or wearing jewelry. The court prohibited him from possessing items whose chief purpose is the promotion of drug or alcohol use. It is the message, not the medium, that is the focus here. And the words of the condition, such as “chief purpose,” “items,” and “promote” are of plain and ordinary meaning. An ordinary person would understand that items bearing marijuana leaves or the logos of

beer companies would have as their “chief purpose” the promotion of drug and alcohol use.

Moreover, as we have noted, the juvenile court may impose probation conditions that would be impermissible for an adult probationer, for the purpose of supervision. Here, we have a 13-year-old boy (14 at the time of this writing) who has problems with anti-social behavior—including damaging a law enforcement search-and-rescue vehicle—and obeying school rules. The probation condition is designed to further the rehabilitative goal of teaching defendant to refrain from anti-social behavior—which, in the case of a minor, includes drug and alcohol use.

Defendant also contends the probation condition is overbroad because it infringes on his First Amendment right of free speech. While a juvenile court may impose probation conditions more stringent than would be permissible in the case of an adult, such a condition, if it imposes limitations on constitutional rights, “must closely tailor these limitations to the purpose of the condition to avoid being invalidated as unconstitutionally overbroad. [Citation.]” (*In re Sheena K.* (2007) 40 Cal.4th 875, 890.)

Defendant contends the condition would prohibit him “from taking legitimate political and personal expressions” by preventing him from possessing items, such as paraphernalia, “with a message of advocacy for legalizing marijuana, medical marijuana, or industrial hemp production or for the reform of the nation’s drug laws.” We disagree. Defendant is a young teenager suspected of drug abuse and engaging in serious anti-social behavior. The probation condition is narrowly tailored to the purpose of his rehabilitation by discouraging behavior that minors cannot engage in. As an adult, defendant would be free to engage in pro-marijuana advocacy or promote use of alcohol. Minors cannot possess or use alcohol or drugs. The defendant’s glorification of alcohol and drug use through the possession of the described prohibited items is contradictory of the goal of encouraging reformation of someone with defendant’s tendencies. For a juvenile probationer with defendant’s history, the probation order is an appropriate tool to help the juvenile court fulfill its rehabilitative purpose to encourage defendant to lead a healthy, law abiding life respectful of self and others, tailored to meet the defendant’s

individual needs. The court followed Welfare and Institutions Code section 730, subdivision (b) by imposing a condition that is “fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.”

III. DISPOSITION

The dispositional order is affirmed.

Marchiano, P.J.

We concur:

Margulies, J.

Banke, J.