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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

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

THE PEOPLE,

Plaintiff and Respondent,

v.

N.J.,

Defendant and Appellant.

A140583

(Alameda County
Super. Ct. No. SJ07007388)

INTRODUCTION

Defendant and appellant N.J. (appellant) appeals from the juvenile court’s entry of an “Order For Restitution and Abstract of Judgment” (Judicial Council of Cal. Forms, form CR-110/JV-790 [Rev. July 2011]) (JV-790 Order) for victim restitution.¹ Appellant contends the JV-790 Order is void for lack of jurisdiction because the juvenile court issued the order after she turned 21 years old, when the juvenile court’s jurisdiction terminated by operation of law. We disagree. As more fully explained below, we conclude the JV-790 Order merely memorialized the court’s original restitution order,

¹ The order signed by the juvenile court in this case is entitled “Order For Restitution and Abstract of Judgment” (Judicial Council of Cal. Forms, form CR-110/JV-790 [Rev. July 2011]) (JV-790 Order). The Order For Restitution is signed by the judicial officer; the Abstract of Judgment is blank except for the name of the judgment creditor [the victim], the judgment debtor [N.J.], and the total amount of judgment entered, \$1,395.00.

which appellant did not challenge. Accordingly, we conclude the juvenile court acted within its authority in issuing the JV-790 Order.

PROCEDURAL BACKGROUND

On June 28, 2007, the Alameda County District Attorney (DA) filed a juvenile wardship petition pursuant to Welfare and Institutions Code section 602,² and filed a first amendment to the petition on July 26, 2007. In the petition and amendment, the DA alleged appellant, then 14 years old, committed a total of nine felonies, consisting of four counts of robbery (Pen. Code, § 211; counts one, four, six, & eight); vehicle theft (Veh. Code, § 10851; count two); assault with a weapon by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(1); count three); and three counts of being an accessory after the fact (Pen. Code, § 32; counts five, seven, & nine).³

On July 27, 2007, the court granted the DA's motion to amend count one of the petition to allege felony grand theft (Pen. Code, § 487, subd. (c)). Appellant admitted to the felony grand theft (count one) and robbery (count eight) charges, and the remaining charges were dismissed upon the DA's motion "with facts and restitution open." The trial court ruled the maximum time of confinement on the charges sustained was five years eight months and set the matter for disposition.

At the disposition hearing held on September 14, 2007, the juvenile court adjudged appellant a ward of the court and placed her on probation. As a condition of probation, the court ordered appellant to pay restitution to the robbery victims mentioned above, see *ante*, fn. 3. The court awarded victim Pamela McLeave the sum of \$1,955 and

² Further undesignated statutory references are to the Welfare and Institutions Code unless otherwise noted.

³ The facts underlying the charges are not pertinent to the issue on appeal and we do not address them further, other than to say that between June 23 and June 26, 2007, minor and three companions went on a violent crime spree. Among other crimes, they robbed and assaulted two elderly female victims by throwing them to the ground and taking their purses; one of the victims was also sprayed in the face with pepper spray. At disposition, these victims were awarded restitution, see *post*.

victim Lolita Oviedo sum of \$1,395 for a total restitution award in the amount of \$3,350. Also, the court ordered appellant jointly and severally liable with her co-perpetrators for the restitution amount. Additionally, the court scheduled a placement review and subsequently placed appellant with a great aunt and uncle in Sacramento County.

On November 6, 2007, the probation officer filed a notice of probation violation pursuant to section 777 alleging appellant absconded from placement and was at large with her whereabouts unknown. The court issued a warrant for appellant's arrest on November 8, 2007.

Appellant, then 17 years old, appeared at a hearing on May 27, 2010 for a self-surrender on the outstanding arrest warrant; she waived her constitutional rights and admitted the section 777 violation of probation.⁴ The court recalled the outstanding arrest warrant, remanded appellant to juvenile hall, and set the matter for disposition. At the disposition hearing on June 11, 2010, the juvenile court reinstated appellant's probation "with all previously-ordered terms and conditions to continue," placed appellant with her grandmother, and continued the matter for a progress report in December 2010.

Subsequently, the minor appeared at progress review hearings held on December 13, 2010 and January 14, 2011. Reports prepared by the probation officer in connection with those hearings noted restitution in the amount of \$3,350 was ordered in September 2007; appellant had made no restitution payments to date and the full amount was outstanding. At the January 2011 hearing, counsel stated appellant "has a job . . . and she expects her first paycheck in February." The court noted appellant had completed "her volunteer work. The issue is the financial part." The court advised appellant she owed "quite a bit of money" and she should "[j]ust try to make some small payments. [¶] . . .

⁴ At the hearing, appellant's grandmother told the court appellant absconded from the Sacramento placement because appellant's uncle was making sexual advances towards her. After absconding, appellant went to live with her grandmother in Oakland.

[¶] Regular monthly payments. It will go down, okay?” The court continued the matter for six months for a further progress report.

On July 18, 2011, the juvenile court issued a bench warrant after appellant failed to appear in court. The minute order stated the warrant was “to expire on 09/04/2013,” the date of appellant’s 21st birthday. But the arrest warrant issued on July 22, 2011 did not specify an expiration date.

The arrest warrant was served on appellant on October 8, 2013 and filed in court on October 10. The accompanying arrest report filed by the probation officer on October 11 states appellant was taken into custody on October 5 pursuant to the arrest warrant and also on new charges of felony burglary and misdemeanor resisting arrest. The report also notes appellant “owes \$3350 in victim restitution . . . [and] [n]o payments have been made.” The report recommended “this matter be continued for a progress report regarding payment of victim restitution . . . or a JV 790 hearing.”

At the detention hearing on October 11, 2013, appellant’s counsel informed the court appellant “has an adult matter pending” and was being held on a warrant from Placer County. The juvenile court recalled its warrant, continued appellant a ward, and continued her current probation conditions. The court also scheduled a hearing for “Dismissal/JV-790” on October 31, 2013. Appellant’s counsel objected to any further hearing, stating, “For the record, [N.J.] is currently 21 years old, and our position is that the juvenile court no longer has jurisdiction over her even for the purpose of filing a JV-790.”

At the hearing held on October 31, 2013, the juvenile court signed a JV-790 Order, and continued the matter a week for clarification on restitution payments to the victims by appellant’s jointly and severally liable co-perpetrators. At the hearing on November 6, the parties agreed victim McLeave had received full restitution from one of appellant’s co-perpetrators. The court clarified the JV-790 Order signed by the court related only to victim Oviedo for the amount of restitution owed to her, opining “this all

works out quite fairly” because appellant paid nothing towards victim McLeave’s restitution.⁵ Thereafter, the court dismissed the wardship and terminated probation. Appellant filed a timely notice of appeal on December 27, 2013.

DISCUSSION

Appellant contends that the juvenile court lacked jurisdiction to issue the JV-790 Order after she turned 21 years old. Appellant relies on the “clear and unambiguous” statutory language in section 607, subdivision (a), which provides, subject to certain exceptions that do not apply here, “The court may retain jurisdiction over any person who is found to be a ward or dependent child of the juvenile court until the ward or dependent child attains 21 years of age” (§ 607, subd. (a).) However, we are not persuaded section 607, subdivision (a) controls the issue before us.

Initially, we note the juvenile court had a constitutional and statutory duty to order restitution be made to the victim by the minor. (Cal. Const., art. I, § 28, subd. (b); § 730.6; *In re Brittany L.* (2002) 99 Cal.App.4th 1381, 1386–1387.) Moreover, the *obligation* to pay restitution survives termination of juvenile jurisdiction. (§ 730.6, subd. (l) [“Any portion of a restitution order that remains unsatisfied after a minor is no longer on probation shall continue to be enforceable by a victim . . . until the obligation is satisfied in full”]; see *In re Michael S.* (2007) 147 Cal.App.4th 1443, 1456-1457 (*Michael S.*.) Furthermore, “[i]n keeping with the ‘unequivocal intention’ that victim restitution be made, statutory provisions implementing the constitutional directive have been broadly and liberally construed. [Citations.]” (*People v. Lyon* (1996) 49 Cal.App.4th 1521, 1525; see also *People v. Stanley* (2012) 54 Cal.4th 734, 737.)

Furthermore, the victim of a juvenile’s crime is entitled to enforce a restitution order as provided in Penal Code section 1214 and in the same manner as a civil judgment. (§ 730.6, subds. (i) [“restitution order imposed . . . shall be enforceable as a

⁵ The JV-790 Order signed by the court orders appellant to pay \$1,395 in restitution to victim Lolita Oviedo.

civil judgment”], (r) [“judgment may be enforced in the manner provided in Section 1214 of the Penal Code”].) Civil money judgments are enforced under the procedures set forth in Code of Civil Procedure section 695.010 et seq., and these provisions apply to a juvenile court restitution order. (*Michael S.*, *supra*, 147 Cal.App.4th at pp. 1456-1457.)

“ ‘Money judgment’ means that part of a judgment that requires the payment of money.” (Code Civ. Proc., § 680.270.) It follows that the victim must have a judgment or order before it can be enforced. To that end, Penal Code section 1214 (section 1214) provides, with specified conditions, that the restitution order is deemed to be a money judgment, and the victim is entitled to a certified copy of it for purposes of enforcement. (Pen. Code, § 1214, subd. (b).) Section 1214 is applicable to juvenile restitution orders. (§ 730.6, subd. (r).) In sum, the statutes entitle a victim to a certified copy of an enforceable order.

Here, the order for victim restitution was a condition of probation in the dispositional orders the juvenile court entered on September 14, 2007. (See *In re Mario C.* (2004) 124 Cal.App.4th 1303, 1307-1308 [in juvenile court proceedings, the judgment is the dispositional order].) Section 1214 provides, “the order to pay restitution . . . is deemed a money judgment if the defendant was informed of his or her right to have a judicial determination of the amount and was provided with a hearing, waived a hearing, or stipulated to the amount of the restitution ordered” (Pen. Code, § 1214, subd. (b)(1).) We must presume that the juvenile court properly entered its restitution order, either as stipulated under the plea agreement, after a hearing with appropriate findings, or upon a knowing and intelligent waiver of such hearing.⁶ Thus, the restitution condition

⁶ There is no reporter’s transcript for the disposition hearing held on September 14, 2007, nor does the record contain a written plea agreement. However, applying normal principles of appellate review, we presume the juvenile court’s orders are correct as to matters on which the record is silent, and that “that official duty has been regularly performed.” (Evid. Code, § 664; *In re Julian R.* (2009) 47 Cal.4th 487, 498–499.) Thus we presume that the juvenile court properly entered its restitution order, either as

of the court's dispositional orders is a money judgment under section 1214 and the JV-790 Order is a document containing the information necessary for its enforcement while preserving the confidentiality of the rest of the juvenile case file. (See § 827.)

Moreover, an abstract of judgment must be issued by the same court in which the judgment was entered. (See Code Civ. Proc., § 674, subd. (a).) And a civil judgment may be enforced for 10 years and may be renewed anytime in those 10 years. (Code Civ. Proc., §§ 683.020, 683.120.) The juvenile court thus had the authority to renew restitution orders for at least 10 years. To engraft a requirement that the judgment debtor be no older than 21 years at the time of issuance would negate the express intent of the Legislature to permit victims to enforce juvenile restitution orders in the same manner as civil judgments. (See § 730.6, subds. (i), (r).) It follows that the court did not lose jurisdiction over the restitution order or the abstract of judgment.⁷

In sum, JV-790 does not create a new or subsequent judgment but is merely a restatement of the original order.⁸ The juvenile court's jurisdiction to issue the order did

stipulated under the plea agreement, after a hearing with appropriate findings, or upon a knowing and intelligent waiver of such hearing.

⁷ The foregoing analysis essentially moots appellant's contention that the juvenile court's "jurisdiction" was somehow vitiated because she was arrested on an "expired" warrant. In any case, there is no expiration date on the face of the arrest warrant issued on July 22, 2011. Appellant asserts the court ordered the warrant to expire "on 09/04/2013" because the minute order so reflects. However, at the hearing, what the court actually stated was, "Okay. So again a bench warrant is issued." Thus, the record does not support appellant's assertion the court issued a bench warrant with an expiration date of September 4, 2013. (Cf. *People v. Farell* (2002) 28 Cal.4th 381, 384, fn. 2 ["The record of the oral pronouncement of the court controls over the clerk's minute order . . ."].)

⁸ Our colleagues in Division Three reached the same conclusion in a case factually and procedurally on point with this case. (See *In re J.V.* (Nov. 26, 2014, A140587) ___ Cal.App.4th ___ [2014 WL 6684713] [holding "the order/abstract in this case, which simply restated the lower remaining balance on an original order for restitution, was nothing more than a memorialization of the original order; no new order or subsequent order was created"].) The parties discussed *In re J.V.* at oral argument.

not terminate on appellant's 21st birthday, as restitution orders may be enforced for 10 years and may be renewed within that time. (See Code Civ. Proc., §§ 683.020, 683.120.)

DISPOSITION

The JV-790 Order issued by the juvenile court is affirmed.

Dondero, J.

We concur:

Humes, P.J.

Banke, J.