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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

A141798

v.

**(Contra Costa County
Super. Ct. No. 5-132309-6)**

JONATHAN FARLEY,

Defendant and Appellant.

_____ /

The magistrate denied appellant Jonathan Farley’s motion to suppress (Pen. Code, § 1538.5)¹ and the trial court denied his motion to set aside the information and renewed suppression motion (§§ 995, 1538.5, subd. (i)). Farley pled no contest to two counts of possession of a firearm by a felon (§ 29800, subd. (a)(1)) and the court placed him on probation with various terms and conditions, one of which prohibited him from using alcohol and “frequent[ing] places where alcohol is the chief item of sale.”

Farley appeals. He contends the magistrate erred by denying his motion to suppress and the trial court abused its discretion by imposing “alcohol-use probation conditions.” We affirm.

¹ Unless noted, all further statutory references are to the Penal Code.

FACTUAL AND PROCEDURAL BACKGROUND

The facts are taken from the combined preliminary hearing and motion to suppress.

The February 26 Incident

On the evening of February 26, 2013, the Antioch Police Department received a report of a shooting in front of an Antioch liquor store. Antioch Police Officer James Colley arrived and interviewed Steven Nicholas, who told Officer Colley he saw 10-12 people in front of the store arguing. According to Nicholas, a teenager “was causing a disturbance” and the store owner tried “to diffuse the situation[.]” The store owner told the teenager to leave, but the argument continued. A man in his late 30’s “confronted the juvenile” and told him to leave. The man and the teenager exchanged “profanities” and the man “got into . . . a blue Tahoe SUV-style vehicle[.]” and “brandished . . . a black revolver.” The man fired five shots, two “toward the ground” and three “toward the sky.” After the shooting, the man “stayed inside” the Tahoe, which “fled[.]”²

The March 1 Incident

Three days later, Nicholas drove by the liquor store at 6:00 p.m. and saw the Tahoe. At 6:11 p.m., Nicholas called the police, identified himself, and reported he saw “the same exact vehicle that appeared to be the one that night.” He described the vehicle as a “blue Chevy Tahoe” and the individual as “a Black male roughly six-foot tall wearing a black . . . wife beater T-shirt . . . [and] jeans or dark pants.” Dispatch informed Antioch Police Officer Thomas Lenderman that “an individual . . . called in stating that he sees an individual who’s responsible for an earlier shooting and that individual is at

² At the combined preliminary hearing and motion to suppress, Nicholas testified he “couldn’t recall where the shots were being fired.” Nicholas also claimed he did not recall seeing anyone get in the Tahoe and denied seeing the man holding a revolver. The magistrate considered the inconsistencies between Nicholas’s statements to the police and his hearing testimony and concluded, based on Nicholas’s “body language . . . and the way he answered questions[,] that he did not want to be completely dishonest with the Court but he did not want to identify anyone in this courtroom . . . he was intimidated . . . and was afraid.” The magistrate concluded Nicholas’s statements to the police “to be more credible than his testimony[.]”

the store currently.” At 7:25 p.m., Officer Lenderman arrived at the liquor store and saw the Tahoe in the parking lot. Several uniformed officers arrived; some were “on perimeter” and others were “around the blue Tahoe.” Officer Lenderman entered the liquor store and saw Farley at the register.³ Farley “was the only person [in the liquor store] wearing black[.]” The other men in the store did not match Nicholas’s description.

When Officer Lenderman walked in the store, Farley’s hands were in his pockets. “[F]or officer safety,” Officer Lenderman asked Farley, “can you please remove your hands from your pockets.” Farley “pulled his hands out of his pockets” and placed “a set of keys . . . on the counter[.]” Officer Lenderman patted Farley down but did not direct Farley to “put his hands on his head.” Officer Lenderman “wrapped both hands around [Farley’s] waist” to ensure “the immediate danger area didn’t conceal a weapon and it was a matter of seconds and then [it] was done.”

Officer Lenderman “asked [Farley] if [he] could talk to him out front.” The two men went outside the liquor store, where Officer Lenderman asked for Farley’s identification and “held onto it[.]” Other officers were nearby. Officer Lenderman asked Farley whether he owned the Tahoe or knew who owned it, and whether he rode in it to the liquor store. Farley denied owning the Tahoe or knowing who owned it. He also denied riding in the Tahoe to the liquor store. Officer Lenderman ran the Tahoe’s registration, which listed Farley as the owner. When Officer Lenderman confronted Farley with the registration, Farley replied “he no longer own[ed] the Tahoe and that he sold it” to a women “named Kim in Napa.” The registration, however, showed Kim “had sold” or “turned the [Tahoe] over to” Farley. Because Farley continued to deny “any association” with the Tahoe, Officer Lenderman went into the liquor store to check the surveillance footage. “[A]nother officer” stood with Farley at a “patrol car . . . ten to 12 feet from the front door[.]”

³ Officer Lenderman could not recall how many officers entered the liquor store because he was more “focused . . . on the individual [he] was going to contact.” He believed “maybe two” other officers entered the liquor store with him.

The surveillance footage “showed [Farley] driving” the Tahoe into the parking lot at 5:08 p.m., and getting out of the driver’s side door and walking into the liquor store. After watching the video, Officer Lenderman believed Farley lied about his association with the Tahoe, and that Farley’s connection to the Tahoe warranted further investigation. Officer Lenderman handcuffed Farley and placed him in a patrol car. Within minutes, another officer brought Nicholas to the liquor store for an in-field show-up; Nicholas identified Farley “as the individual who shot the gun” on February 26, 2013 “by saying, ‘That’s him. I’m 100 percent sure.’” Nicholas told Officer Lenderman “he was sure [Farley] was the shooter because . . . he was feet away from him when the shooting happened.” Officer Lenderman arrested Farley and retrieved the keys to the Tahoe because he planned to tow it. During his “inventory scan,” Officer Lenderman opened the Tahoe’s center console and found a black revolver “loaded with six live .22 caliber rounds[,]” and a PG&E bill in Farley’s name.

Charges and Motion to Suppress

The People charged Farley with two counts of possession of a firearm by a felon (§ 29800, subd. (a)(1)), two counts of possession of a loaded firearm by a felon (§ 25850, subd. (a), (c)(1)), discharging a firearm with gross negligence (§ 246.3, subd. (a)), and being a felon in possession of a concealed firearm in a vehicle (§ 25400, subd. (a)(1)). The People also alleged sentencing enhancements.

Farley moved to suppress at the preliminary hearing (§ 1538.5). He contended the detention was illegal and the automobile exception did not justify the search of the Tahoe. Farley also claimed the search was not incident to arrest because he “was not detained from the [Tahoe], but from inside” the liquor store. The magistrate denied the motion, concluding “there was probable cause to detain” Farley, the detention was not “unduly prolonged,” and the arrest occurred “after the show-up when [Farley] was advised he was under arrest[.]” The magistrate described Officer Lenderman as “credible” and determined he “would have eventually towed the [Tahoe]” and “the firearm would have been discovered during an inventory search[.]” The magistrate also found the automobile exception applied and held Farley to answer the charges.

Farley moved to set aside the information and renewed his suppression motion (§§ 995, 1538, subd. (i)). According to Farley, “Officer Lenderman did not have reasonable suspicion to justify the detention . . . one hour and fourteen minutes after a vague tip.” Farley also argued the search of the Tahoe “was illegal because [it] was conducted without a warrant and [did] not meet any exception to the warrant requirement.” In opposition, the People argued Officer Lenderman had reasonable suspicion to detain because Farley and the Tahoe matched Nicholas’s description and because Farley lied about his connection to the Tahoe. The People also contended the search of the Tahoe was justified because Officer Lenderman reasonably believed “incriminating evidence could be” found in the Tahoe and because he “found it necessary to impound [the Tahoe] for safekeeping.” The trial court denied both motions and concluded the magistrate properly denied Farley’s initial motion to suppress.

Plea and Sentencing

Farley pled no contest to two counts of possession of a firearm by a felon (§ 29800, subd. (a)(1)) and admitted a prior felony conviction for possessing cocaine base for sale (Health & Saf. Code, § 11351.5). The court suspended imposition of sentence and placed Farley on probation for three years. At the sentencing hearing, the court indicated it would impose a probation condition requiring Farley “to abstain from the use of alcohol . . . and not frequent places where alcohol is the chief item of sale.” Farley’s counsel objected, arguing: “I don’t think there’s any cause for a no alcohol clause. It’s not addressed. I understand the general probation on drugs reiterates the law but I think he’s legally entitled to . . . alcohol. . . . It’s not a standard of formal probation.” The court disagreed, stating the condition was a “standard term[] of formal probation unless it’s bargained away[,]” and imposed the condition over Farley’s objection. The probation order prohibits Farley from possessing or consuming alcoholic beverages and going “to places where alcoholic beverages are the chief item of sale.”

DISCUSSION

I.

The Magistrate Properly Denied the Motion to Suppress

“The standard of appellate review of a trial court’s ruling on a motion to suppress is well established.” (*People v. Glaser* (1995) 11 Cal.4th 354, 362.) “A criminal defendant may test the unreasonableness of a search or seizure by making a motion to suppress at the preliminary hearing and, if unsuccessful, renewing the motion in superior court if held to answer.” (*People v. Superior Court* (2003) 114 Cal.App.4th 713, 717 (*People*); § 1538.5, subd. (i).) “In passing on a renewed motion to suppress, the defendant is entitled to review of the magistrate’s legal conclusion on the suppression motion[.]” (*People, supra*, at p. 717.) On appeal from the trial court’s denial of the motion to suppress, we disregard the trial court’s findings and review the magistrate’s determination, drawing “all presumptions in favor of the magistrate’s factual determinations[.]” (*People v. McDonald* (2006) 137 Cal.App.4th 521, 529.) We “uphold the magistrate’s express or implied findings if they are supported by substantial evidence” and “exercise our independent judgment” to determine the reasonableness of a search or seizure. (*Ibid.*)

A. Officer Lenderman Did Not Unreasonably Detain Farley

Farley contends Officer Lenderman lacked reasonable suspicion to detain him. According to Farley, his encounter with Officer Lenderman was not consensual, and the detention began when he complied with Officer Lenderman’s request to remove his hands from his pockets. Under the Fourth Amendment, warrantless searches and seizures are presumptively unreasonable. (*Arizona v. Gant* (2009) 556 U.S. 332, 338.) However, not every contact between a police officer and citizen constitutes an illegal search and seizure. There are three categories of “[p]olice contacts with individuals[:]” (1) consensual encounters; (2) detentions; and (3) formal arrests. (*In re Manuel G.* (1997) 16 Cal.4th 805, 821 (*Manuel G.*)) Consensual encounters “result in no restraint of an

individual's liberty" (*Wilson v. Superior Court* (1983) 34 Cal.3d 777, 784) and require no "objective justification." (*Florida v. Royer* (1983) 460 U.S. 491, 497.)

Here, the initial encounter between Officer Lenderman and Farley was consensual. (*Manuel G., supra*, 16 Cal.4th at p. 821.) "Circumstances establishing a seizure," such as "the presence of several officers, an officer's display of a weapon, some physical touching of the person, or the use of language or of a tone of voice indicating that compliance with the officer's request might be compelled" were not present here. (*Ibid.*; cf. *People v. Brown* (2015) 61 Cal.4th 968, 978 (*Brown*) [detention where officer stopped behind the defendant's parked car and activated emergency lights].) Officer Lenderman did not touch Farley or display a weapon. He did not yell at Farley or issue a command: he simply asked Farley to take his hands out of his pockets. "[A]sking a suspect to take his hands out of his pockets is not a detention" and ordering a defendant to do so does not "automatically transform[] a consensual encounter into a detention." (*In re Frank V.* (1991) 233 Cal.App.3d 1232, 1239 (*Frank V.*); *Manuel G., supra*, 16 Cal.4th at p. 821 ["a detention does not occur when a police officer merely approaches an individual on the street and asks a few questions"]; see also *U.S. v. Drayton* (2002) 536 U.S. 194, 200-201.)

"[T]here is 'no 'bright-line distinction' between a consensual encounter and a detention.'" (*People v. Linn* (2015) 241 Cal.App.4th 46, 59.) A "consensual encounter between a police officer and a citizen can be transformed into a . . . detention . . . 'if, in view of all the circumstances . . . a reasonable person would have believed that he was not free to leave.'" (*California v. Hodari D.* (1991) 499 U.S. 621, 639, quoting *United States v. Mendenhall* (1980) 446 U.S. 544, 554.) Here, the consensual encounter between Officer Lenderman and Farley became a detention when Officer Lenderman patsearched Farley. (*People v. Lindsey* (2007) 148 Cal.App.4th 1390, 1395 & fn. 4 (*Lindsey*) [detention began when officer patsearched the defendant].) A patdown constitutes a detention because there is "no practical way to conduct a patdown without physical restraint[.]" (*Frank V., supra*, 233 Cal.App.3d at p. 1240, fn. 3.) An officer must "have a reasonable suspicion, based on objective facts," to detain. (*Brown v. Texas* (1979) 443

U.S. 47, 51.) The reasonable suspicion necessary to justify a detention depends on “the content of information possessed by police and its degree of reliability[.]” (*Alabama v. White* (1990) 496 U.S. 325, 330 (*White*)), and can be based, not only on an officer’s personal observations, but also on information provided by an informant. (*Adams v. Williams* (1972) 407 U.S. 143, 146-147 (*Adams*).

1. The Tip Was Sufficiently Reliable

Nicholas’s tip gave Officer Lenderman reasonable suspicion to detain Farley. A “tip may itself create a reasonable suspicion sufficient to justify a . . . detention, especially if the circumstances are deemed exigent by reason of . . . threats to public safety.” (*People v. Wells* (2006) 38 Cal.4th 1078, 1083; *Adams, supra*, 407 U.S. at p. 147 [information from an “informant’s unverified tip” may carry “enough indicia of reliability to justify” a detention].) To determine whether an informant’s tip creates reasonable suspicion to detain, courts consider whether the tip “demonstrate[s] ‘sufficient indicia of reliability’” and whether the tip “create[d] reasonable suspicion that ‘criminal activity may be afoot.’” (*Navarette v. California* (2014) ___ U.S. ___ [134 S.Ct. 1683, 1688, 1690] (*Navarette*), internal citations omitted; *Brown, supra*, 61 Cal.4th at p. 981.) In examining the tip’s indicia of reliability, “an informant’s ‘veracity,’ ‘reliability,’ and ‘basis of knowledge’” are “highly relevant[.]” (*White, supra*, 496 U.S. at p. 328, quoting *Illinois v. Gates* (1983) 462 U.S. 213, 230.)

Courts have found a tip sufficiently reliable when the tipster’s description of the person or vehicle matches what the police observe, and when the described location’s “temporal and geographic proximity” is close to the original crime’s location. (*People v. Little* (2012) 206 Cal.App.4th 1364, 1372 [detention lawful where there was “temporal and geographical proximity[]” and the defendant matched the description of the suspects’ clothing, race, age, and vehicle]; *People v. Sawkow* (1984) 150 Cal.App.3d 999, 1008-1010 [suspect’s physical resemblance to the informant’s description and the suspect’s presence near the crime scene provided reasonable suspicion to detain].) On March 1, Nicholas told dispatch he saw the man responsible for the February 26 shooting at the liquor store, and described him as “a Black male roughly six-foot tall wearing a

black . . . wife beater T-shirt” and “jeans or dark pants.” Nicholas also reported he saw “the same exact vehicle that appeared to be the one” from the February 26 shooting at the liquor store, and described it as a “blue Chevy Tahoe.”⁴ When Officer Lenderman arrived at the liquor store, he found Farley and the Tahoe, both matching Nicholas’s February and March 1 descriptions. We conclude Nicholas’ tip contained sufficient indicia of reliability because Farley and the Tahoe matched Nicholas’s description, and both Farley and the Tahoe were located where the shooting occurred.

Relying on *Florida v. J.L.* (2000) 529 U.S. 266 (*J.L.*), Farley claims the tip was not reliable because Nicholas did not explain how he knew “the tall black male in the store had been involved in a prior shooting[.]” nor was there evidence Nicholas “had personally observed the asserted illegal activity[.]” Farley’s reliance on *J.L.* is misplaced. In *J.L.*, the anonymous tip did “not show that the tipster [had] knowledge of concealed criminal activity” — the tipster reported an African American man in a plaid shirt standing at a bus stop had a concealed weapon. (*Id.*, at p. 272.) Here and in contrast to *J.L.*, Nicholas had firsthand knowledge as a witness to the criminal activity: he was at the liquor store when the shooting occurred on February 26 and was there again on March 1 when he saw “the same exact vehicle” he had seen at the liquor store on February 26, and the person who shot the gun. (See *People v. Dolly* (2007) 40 Cal.4th 458, 468 (*Dolly*); *Navarette, supra*, 134 S.Ct. at p. 1689 [caller had eyewitness knowledge where she reported a vehicle ran her off the road]; *Lindsey, supra*, 148 Cal.App.4th at p. 1399 [caller provided sufficient “basis of her knowledge” because she reported hearing gunshots after seeing the defendant and explained it was the third occurrence]; *Brown, supra*, 61 Cal.4th at p. 981 [caller reported witnessing a fight, described the number of people involved and “heard one person claim to have a loaded gun”].)⁵

⁴ Reasonable suspicion can be established by the collective knowledge of officers involved in an arrest or detention even if not all the information is conveyed to the specific officer or officers who carry out the detention. (See *People v. Ramirez* (1997) 59 Cal.App.4th 1568; *Brown, supra*, 61 Cal.4th at p. 983.)

⁵ We reject Farley’s contention that Nicholas’ description lacked detail. Nicholas’s description of Farley included his gender, race, height, and attire, and the make, color,

Farley's reliance on *J.L.* is unavailing for the additional reason that Nicholas identified himself to dispatch, and as a result, the tip was not anonymous. When "'an informant places his anonymity at risk,' [a] court may consider this factor in assessing" the tip's reliability. (*People v. Turner* (2013) 219 Cal.App.4th 151, 167.) Nicholas's identity provided "safeguards against making false reports" and strengthened his veracity. (*Navarette, supra*, 134 S.Ct. at p. 1689; see *Adams, supra*, 407 U.S. at p. 146 [informant personally came forward "to give information that was immediately verifiable at the scene" resulting in "a stronger case than . . . the case of an anonymous telephone tip."].)

According to Farley, the tip was not reliable because the police arrived at the liquor store more than an hour after Nicholas called dispatch. Farley's focus on the length of time between the tip and law enforcement's arrival is myopic. We do not review the length of time in isolation; we consider "'the totality of the circumstances — the whole picture[.]'" (*Navarette, supra*, 134 S.Ct. at p. 1687, quoting *United States v. Cortez* (1981) 449 U.S. 411, 417 (*Cortez*)). Farley's reliance on a trio of cases — including *Lindsey* — does not alter our conclusion. While the response time between Nicholas's tip and law enforcement's arrival was shorter in *Lindsey* than in this case, other facts we have already discussed support the tip's reliability. We conclude the length of time does not render the tip unreliable. (*Lindsey, supra*, 148 Cal.App.4th 1390.)

2. The Tip Created Reasonable Suspicion of Criminal Activity

Nicholas's tip also created reasonable suspicion that "'criminal activity may be afoot.'" (*Navarette, supra*, 134 S.Ct. at p. 1690, quoting *Terry v. Ohio* (1968) 392 U.S. 1, 30.) According to Farley, Officer Lenderman did not have reasonable suspicion because the crime was "completed" several days before he arrived at the liquor store. In *Dolly*, the California Supreme Court rejected a similar argument. There, an anonymous tipster called 911 "contemporaneously reporting an assault with a firearm and accurately

and model of the Tahoe. (*People v. Fields* (1984) 159 Cal.App.3d 555, 564 [reasonable suspicion to detain where the suspect matched the victim's description, which included the suspect's race, gender, height, general age group, and attire]; *People v. Craig* (1978) 86 Cal.App.3d 905, 911-912 [same].)

describing the perpetrator, his vehicle, and its location[.]” (*Dolly, supra*, 40 Cal.4th at p. 461.) The defendant argued “the emergency had ended . . . because the 911 call was ‘a report of an assault that had been completed, not one that is occurring[.]’” (*Id.* at p. 466.) The California Supreme Court disagreed and upheld the detention, observing the suspect “remained at large and had use of his vehicle. In this context, defendant remained ‘extremely mobile and potentially highly dangerous’ to the tipster-victim and potentially to others in the area. . . .” (*Ibid.*; see also *Brown, supra*, 61 Cal.4th at p. 984, fn. 5 [officer had reasonable suspicion even though the fight described by the 911 caller “had ended”].)

As in *Dolly*, Farley was still in the area with his vehicle. He was also “‘extremely mobile and potentially highly dangerous[.]’” (*Dolly, supra*, 40 Cal.4th at p. 466, quoting *U.S. v. Wheat* (8th Cir. 2001) 278 F.3d 722, 737.) As a result, Officer Lenderman had reasonable suspicion to detain Farley. (See also *United States v. Hensley* (1985) 469 U.S. 221, 229 [flyer based on a tip provided justification to detain a suspect, even though suspect “was involved in or is wanted in connection with a completed felony” because an officer would believe the suspect was wanted for questioning]; *Cortez, supra*, 449 U.S. at p. 417, fn. 2 [“an officer may stop and question a person if there are reasonable grounds to believe that person is wanted for past criminal conduct”].)

B. The Automobile Exception Justified the Search of the Tahoe

Farley contends the search of the Tahoe was illegal. The Fourth Amendment “permits the warrantless search of an automobile with probable cause.” (*People v. Strasburg* (2007) 148 Cal.App.4th 1052, 1059.) “Under the automobile exception to the warrant requirement,” the police have probable cause to search if they believe “‘an automobile contains contraband or evidence’” of a crime. (*People v. Waxler* (2014) 224 Cal.App.4th 712, 718 (*Waxler*), quoting *People v. Superior Court (Nasmeh)* (2007) 151 Cal.App.4th 85, 100.) “[I]f probable cause justifies the search of a . . . vehicle, it justifies the search of every part of the vehicle and its contents that may conceal the object of the search.” [Citation.]” (*Id.* at p. 719.)

We are not persuaded by Farley’s claim that Officer Lenderman “had no information that the [Tahoe] was involved in” the shooting, and “had no information at all about the prior shooting.” Officer Lenderman knew about the Tahoe’s involvement in the shooting because Nicholas informed dispatch the same “blue Chevy Tahoe” involved in the February 26 shooting was located in front of the liquor store. When he arrived at the liquor store, Officer Lenderman found the Tahoe, which matched Nicholas’s description. The store’s surveillance video showed Farley driving the Tahoe into the parking lot, and the Tahoe was registered to Farley. Additionally, Nicholas positively identified Farley as the individual who shot the gun. Therefore, after lawfully detaining Farley and discovering he owned the Tahoe involved in the shooting, Officer Lenderman reasonably concluded the Tahoe contained evidence of a crime. (*Waxler, supra*, 224 Cal.App.4th at p. 718.) We conclude Officer Lenderman had probable cause to search the Tahoe under the automobile exception to the warrant requirement. (*Id.* at p. 715.) Having reached this conclusion, we need not address the parties’ remaining arguments regarding the search of the Tahoe.

II.

Imposing the Alcohol Use Probation Condition Was Not an Abuse of Discretion

Farley contends the court erred by imposing the probation condition “prohibiting [him] from using alcohol or entering bars or liquor stores[.]” “In granting probation, courts have broad discretion to impose conditions to foster rehabilitation and to protect public safety[.]” (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1120 (*Carbajal*)). A probation condition is valid “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[.]’ [Citation.]” (*People v. Lent* (1975) 15 Cal.3d 481, 486, fn. omitted.) “We review conditions of probation for abuse of discretion,” (*People v. Olguin* (2008) 45 Cal.4th 375, 379) and will uphold the trial court’s determination unless “its determination is arbitrary or capricious or . . . “exceeds the bounds of reason, all of the circumstances being

considered.’ [Citations.]” (*Carbajal, supra*, 10 Cal.4th at p. 1121, quoting *People v. Welch* (1993) 5 Cal.4th 228, 233.)

Courts have upheld probation conditions prohibiting the consumption of alcohol when the crime involved drugs or alcohol, or when the defendant had a history of substance abuse or drug-related convictions. (*People v. Beal* (1997) 60 Cal.App.4th 84, 86 (*Beal*) [upholding alcohol use probation condition where the defendant possessed and sold methamphetamine]; *People v. Lindsay* (1992) 10 Cal.App.4th 1642, 1644 [“alcohol-use condition [was] reasonably related to [appellant’s] sale of cocaine or to future criminality” where he sold drugs to support his alcohol addiction].) “[E]mpirical evidence shows that there is a nexus between drug use and alcohol consumption” because “the use of alcohol lessens self-control” and can reduce the user’s “ability to stay away from drugs.” (*Beal, supra*, 60 Cal.App.4th at p. 87; *People v. Smith* (1983) 145 Cal.App.3d 1032, 1035 [upholding probation condition restricting alcohol use where defendant used drugs and was convicted of drug offense].)

Farley claims his conviction did not involve drugs or alcohol and as a result, the probation condition is not reasonably related to the crime for which he was convicted. We are not persuaded for several reasons. First, Farley admitted a prior conviction for possession of cocaine base for sale, and had a history of drug-related convictions, including one for transporting a controlled substance, and three for possession of cocaine base for sale, one within the last five years. Second, the crime occurred at a liquor store, where alcohol was the chief item of sale. Finally, there is a well-established connection between alcohol and drug use. (*Beal, supra*, 60 Cal.App.4th at p. 87.) Giving “proper deference to a trial court’s broad discretion in imposing terms of probation, particularly where those terms are intended to aid the probation officer in ensuring the probationer is complying with the fundamental probation condition, to obey all laws,” (*People v. Balestra* (1999) 76 Cal.App.4th 57, 68) we cannot conclude the court abused its discretion by imposing the probation condition at issue here.

DISPOSITION

The judgment is affirmed.

Jones, P.J.

We concur:

Needham, J.

Bruiniers, J.

A141798