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

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

THE PEOPLE,

Plaintiff and Respondent,

v.

KEVIN D.,

Defendant and Appellant.

A142374

(Solano County
Super. Ct. No. J42229)

Kevin D. appeals from the disposition after he admitted violating probation. He contests a \$300 fine imposed under Welfare and Institutions Code section 730.5.¹ We agree with the holding of *In re Brian K.* (2002) 103 Cal.App.4th 39 (*Brian K.*) that the fine was lawful, and affirm the dispositional orders.

BACKGROUND

In October 2013, Kevin participated in an armed robbery. A section 602 petition alleged that he committed robbery (Pen. Code, § 211), involving a firearm (Pen. Code, § 12022, subd. (a)(1)). He admitted felony offenses of grand theft from a person (Pen. Code, § 487, subd. (c)), and assault with a deadly weapon (Pen. Code, § 245, subd.

¹Unless otherwise indicated, subsequent statutory references are to the Welfare and Institutions Code.

(a)(1)). He was adjudged a ward and granted probation. The court imposed a \$100 fine pursuant to section 730.6.

In March 2014, Kevin punched his high school teacher in the face. A section 602 petition alleged that he battered a school employee. (Pen. Code, § 243.6.) The section 602 petition was dismissed and, in a probation violation proceeding under section 777, Kevin admitted violating probation by failing to obey all laws. The court continued him as a ward on probation and, after confirming that he had a job, imposed a \$300 fine under section 730.5.

DISCUSSION

Section 730.5 states: “When a minor is adjudged a ward of the court on the ground that he or she is a person described in Section 602 . . . the court may levy a fine against the minor up to the amount that could be imposed on an adult for the same offense, if the court finds that the minor has the financial ability to pay the fine.

Section 775 provides: “Any order made by the court in the case of any person subject to its jurisdiction may at any time be changed, modified, or set aside, as the judge deems meet and proper”

Brian K., *supra*, 103 Cal.App.4th at p. 44, held that “[b]ecause section 775 allows for a modification of any order the court previously made, the court in a section 777 proceeding may modify the fines it originally imposed under appropriate sections.” Although section 777 “by itself does not authorize the imposition of fines . . . the court does have authority to impose fines in a section 777 proceeding pursuant to other statutory provisions.” (*Id.* at p. 41.) Those provisions include section 730.5, which “authorizes fines when a minor is adjudged a ward of the court and a person described in section 602.” (*Id.* at p. 44.)

Brian K. thus squarely allows the fine imposed here. Kevin argues that *Brian K.* was wrongly decided because the court improperly relied on *In re Paul R.* (1996) 42 Cal.App.4th 1582 (*Paul R.*) in reaching its decision, and the decision was contrary to the language of section 730.5. Neither contention is persuasive.

Brian K. cited *Paul R.* for two propositions. One, that section 777 proceedings “allow the juvenile court to ‘change previous orders’ ” (*Brian K.*, *supra*, 103 Cal.App.4th at p. 44, quoting *Paul R.*). Two, “even though section 777 does not expressly mention fines, juvenile courts in section 777 proceedings may impose them . . . where the amount does not exceed the statutory maximum. (See *In re Paul R.*, *supra*, 42 Cal.App.4th at pp. 1588–1590 [court in § 777 proceeding could impose a felony restitution fine under the express authority of § 730.6, subd. (b) as long as it did not exceed the \$1,000 statutory maximum].” (*Ibid.*)

The court’s reliance on *Paul R.* was proper. The issue in *Paul R.* was whether restitution ordered in that case exceeded the statutory maximum then in effect. The minor admitted allegations in two petitions involving residential burglaries, and was committed to a local camp. A later 777 petition charged that he violated probation by his conduct in camp, and he admitted the violation. He was then ordered to pay a total of \$1,000 to the two burglary victims, and two \$100 restitution fines, one for each petition. He challenged the restitution fines on the ground that, together with the \$1,000 in victim restitution, they exceeded a \$1,000 restitution limit. The issue was whether the fines arose from one disposition or two. If they arose from one disposition, the fines were excessive. The court concluded that the fines arose from one disposition and set aside the two \$100 restitution fines.

As relevant here, the *Paul R.* court discussed “the nature of a proceeding under section 777,” noting that “the proceeding is not the juvenile equivalent of an adult probation revocation hearing,” and could result in harsher penalties than those originally imposed, such as confinement at the Youth Authority. (*Paul R.*, *supra*, 42 Cal.App.4th at p. 1588.) Thus, as the *Brian K.* court validly observed, *Paul R.* stands for the proposition that section 777 proceedings allow the court to change previous orders. And although the *Paul R.* court set aside restitution fines, its treatment of the issue implied, as the *Brian K.* court noted, that additional fines could be levied in a section 777 proceeding if they did not exceed the statutory maximum.

Kevin’s opening brief argues that his fine was unauthorized because *Paul R.* does not “stand for the proposition that a juvenile court that has made a finding under section 777 may utilize all of the remedies that were available at the time wardship was initially declared.” But *Brian K.*, which is directly on point, rests primarily on section 775, not *Paul R.* It is specious to argue that a case that rests in part on a precedent that, by itself, is not controlling, is for that reason incorrect.

Kevin does at least raise a colorable claim—not considered in *Brian K.*—that the language of section 730.5 precludes the fine imposed here. Section 730.5 states that a fine may be imposed “[w]hen a minor is adjudged a ward of the court” Kevin interprets this language to mean that a section 730.5 fine may only be levied at the time the minor is declared a ward of the court, not when the minor is continued as a ward under section 777 after a probation violation. Here, the second section 602 petition was dismissed, and the case proceeded under section 777.

We read section 730.5 to authorize this fine. The section simply means that the minor must be a ward when the fine is imposed. This conclusion is consistent with the legislative policy that juvenile courts are to have broad discretion to impose probation conditions that will promote the minor’s rehabilitation. (See, e.g., § 730, subd. (b); *In re Antonio C.* (2000) 83 Cal.App.4th 1029, 1033–1034.) This conclusion is also consistent with basic principles of statutory construction. (See, e.g., *In re Eddie L.* (2009) 175 Cal.App.4th 809, 814 [when a statute is amenable to alternative interpretations, the one leading to the more reasonable result will be adopted]; *20th Century Ins. Co. v. Superior Court* (2001) 90 Cal.App.4th 1247, 1275 [statutes are not construed in isolation, but rather with reference to the entire scheme of which they are a part].)

The court had the power to determine that punching his teacher in the face should cost Kevin \$300.

DISPOSITION

The dispositional orders are affirmed.

Siggins, J.

We concur:

McGuinness, P.J.

Pollak, J.