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

THE PEOPLE,
Plaintiff and Respondent,
v.
LOVETT MOORE,
Defendant and Appellant.

A146861
(Contra Costa County
Super. Ct. No. 05-070475-9)

Defendant Lovett Moore appeals an order from the Contra Costa County Superior Court revoking his outpatient status and readmitting him to the state hospital pursuant to Penal Code section 1608.¹ The Attorney General has conceded the court was in error because Moore was entitled to a hearing prior to the decision to revoke his status, which the court did not provide. We agree that Moore is entitled to a hearing, and thus we reverse the lower court's order and remand the cause for a hearing pursuant to section 1608.

I. FACTUAL AND PROCEDURAL BACKGROUND

Appellant previously entered a plea of not guilty by reason of insanity to one felony count of failing to complete his annual registration, which is required of sexual offenders under former section 290, subdivision (a)(1)(D).² In April 2009, Moore was placed on outpatient status for one year under the supervision of the county conditional

¹ Subsequent unspecified statutory references are to the Penal Code.

² This provision has since been recodified to section 290.012, subdivision (a).

release program (CONREP), pursuant to section 1600 et seq. His outpatient status was then renewed every year until 2015.

Moore was hospitalized in March 2014 at the Napa State Hospital. Since then, CONREP has several times requested the revocation of Moore's outpatient status. On October 15, 2015, the Superior Court revoked his outpatient status and ordered that Moore continue involuntary treatment at the hospital pursuant to section 1608 "until he is deemed suitable for outpatient treatment again." The court did not first hold a hearing before revoking Moore's status.

II. DISCUSSION

Moore appeals, alleging that the trial court violated his right to a hearing prior to revoking his outpatient status. The Attorney General concedes that the trial court was in error. We agree, and reverse the trial court's order.

Section 1608 clearly explains the procedure for filing a request to revoke a person's outpatient status. The section provides: "Within 15 judicial days, the court where the request was filed shall hold a hearing and shall either approve or disapprove the request for revocation of outpatient status." (§ 1608.) The plain language of section 1608 is unequivocal on the requirement of a hearing prior to revoking outpatient status.

Section 1610 provides an exception to the clear requirement that a hearing must be held. Under this section, a court may confine a person on outpatient status when the community program director believes that the person is a danger to him or herself. (§ 1610, subd. (a).) However, this confinement is only temporary "pending [a] hearing on request for revocation of status." (§ 1610.)

Here, the trial court did not temporarily confine Moore pending a future decision on his outpatient status. The court instead revoked his outpatient status indefinitely "until he is deemed suitable for outpatient treatment again." This does not fall within the exception provided in section 1610, and is instead a clear violation of section 1608.

III. DISPOSITION

The order revoking Moore's outpatient status is reversed and the case is remanded to allow Moore a hearing, as required under section 1608.

Streeter, J.

We concur:

Ruvolo, P.J.

Rivera, J.