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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re Johnny S., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

JOHNNY S.,

Defendant and Appellant.

F063499

(Stanislaus Super. Ct. No. 511830)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Stanislaus County. Susan D. Siefkin, Judge.

Suzanne M. Morris, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Louis M. Vasquez and Rebecca Whitfield, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Levy, Acting P.J., Kane, J. and Poochigian, J.

INTRODUCTION

Appellant Johnny S., a minor, was alleged to have committed count I, vehicle theft (Veh. Code, § 10851, subd. (a)) and count II, evasion of a peace officer (Veh. Code, § 2800.2, subd. (a)). After a contested jurisdiction hearing, the court found both allegations true. The court placed appellant on formal probation subject to certain terms and conditions.

On appeal, appellant contends that his mother, as his custodial parent, never received notice of his eligibility for deferred entry of judgment (DEJ); that the court failed to consider his suitability for DEJ; that there is insufficient evidence to support the court's true finding as to count I, vehicle theft; and that some of the probationary terms and conditions are unconstitutionally vague. We will reverse and remand for further appropriate proceedings.

FACTS

On the evening of June 3, 2011, Adriana Perez loaned her 1997 Nissan Quest minivan to her boyfriend, Peter Ayarza. Ayarza drove the minivan to La Huaraca nightclub, where he worked, and parked it in the club's parking lot. Ayarza thought he left the keys in the unlocked minivan.

Around 2:00 a.m. on June 4, 2011, Ayarza finished work, went into the parking lot, and discovered the minivan was missing. Ayarza asked the nightclub's security guard about the minivan. The security guard said that he noticed someone driving away in the vehicle and just assumed that Ayarza's girlfriend had picked up the vehicle. Ayarza called the police. He also called Perez and arranged for a mutual friend to drive her to the nightclub to pick him up. Ayarza and Perez met an officer at the nightclub to report the stolen vehicle.

After making the report, Ayarza and Perez headed home in their friend's car. As Ayarza drove home, they saw the stolen minivan pull out of the driveway of another

nightclub and stop at an intersection. They were about 10 minutes away from the location where the minivan had been stolen.

Perez and Ayarza saw two people sitting in the minivan's front seat. They described the driver as chubby with short hair, and the passenger was thinner and taller.

Ayarza turned his friend's car around and followed the minivan. Perez called the police and described the stolen minivan's location. The minivan accelerated and tried to evade Ayarza.

Stanislaus County Sheriff's Deputy Moreno was already in the area responding to another dispatch, when he saw Ayarza following the speeding minivan. Deputy Moreno activated his patrol car's siren and lights, pursued the minivan, and attempted to conduct a traffic stop. The minivan failed to stop, Moreno followed the minivan, and Ayarza followed Moreno.

As the pursuit continued, the minivan traveled over 55 miles per hour. The minivan went through a stop sign, lost control at a corner, swerved on and off the road, and drove across a residence's front yard. The minivan turned into an alley, crashed into a fence and building, and finally stopped.¹ Two people ran out of the minivan's passenger door.

Deputy Moreno apprehended appellant in the area. Moreno asked Ayarza to look at appellant while seated in his patrol car. Ayarza immediately identified appellant as the minivan's driver. Perez and Ayarza also identified the minivan as their stolen vehicle. The keys were never recovered.

At trial, both Perez and Ayarza identified appellant as the minivan's driver based on their observations when they saw the stolen minivan pulling out of the other nightclub parking lot and traveling on the street.

¹ According to the probation report, the minivan was so damaged that it could not be driven and had to be towed from the area for extensive repairs.

DEFENSE EVIDENCE

Appellant admitted he was in the stolen minivan but insisted that he never drove the vehicle, and he did not know it was stolen until just before it crashed. Appellant testified that a friend picked him up in the minivan around 11:00 p.m. They drove around for awhile and went to another friend's house. Appellant testified his friend started the minivan with a set of keys. Appellant's friend drove the minivan the entire time he was in the vehicle. As the friend was driving appellant home, the deputy tried to conduct the traffic stop. His friend refused to stop and told appellant that the minivan was stolen. After the minivan crashed, appellant ran away because he did not want to get caught. Appellant refused to identify the person who was driving the minivan.

DISCUSSION

I. Notice and suitability determination for DEJ

Appellant contends that his mother, who was his custodial parent, never received the requisite notice that he was eligible for DEJ prior to the contested jurisdictional hearing. Appellant further argues the court failed to consider his suitability for DEJ. Respondent asserts this court should presume that the requisite notices were given since appellant's mother attended all the juvenile court hearings. Respondent further asserts that appellant has waived any issues regarding the court's failure to consider his suitability for DEJ, since he denied the allegations in the petition and requested a contested jurisdictional hearing. As we will explain, however, the matter must be remanded for the appropriate notice and findings.

A. DEJ

We begin with a brief overview of the DEJ process. The DEJ provisions of Welfare and Institutions Code² section 790 et seq. "provide that in lieu of jurisdictional and dispositional hearings, a minor may admit the allegations contained in a [Welfare and

² All further statutory citations are to the Welfare and Institutions Code unless otherwise indicated.

Institutions Code] section 602 petition and waive time for the pronouncement of judgment. Entry of judgment is deferred. After the successful completion of a term of probation, on the motion of the prosecution and with a positive recommendation from the probation department, the court is required to dismiss the charges. The arrest upon which judgment was deferred is deemed never to have occurred, and any records of the juvenile court proceedings are sealed. [Citations.]” (*Martha C. v. Superior Court* (2003) 108 Cal.App.4th 556, 558.)

The determination of whether to grant DEJ requires consideration of “two distinct essential elements of the [DEJ] program,” viz., “eligibility” and “suitability.” (*In re Sergio R.* (2003) 106 Cal.App.4th 597, 607, fn. 10, italics omitted.)

“Under section 790, the prosecuting attorney is required to determine whether the minor is *eligible* for DEJ. Upon determining that a minor is eligible for DEJ, the prosecuting attorney ‘shall file a declaration in writing with the court or state for the record the grounds upon which the determination is based, and shall make this information available to the minor and his or her attorney.’ (§ 790, subd. (b).) The form designed for this purpose is a [Determination of Eligibility—Deferred Entry of Judgment—Juvenile] form JV–750, the completion of which requires the prosecutor to indicate findings as to the eligibility requirements by checking, or not checking, corresponding boxes. (Cal. Rules of Court, rule 5.800(b).) *If a minor is found eligible for DEJ, form JV–751, entitled ‘Citation and Written Notification for Deferred Entry of Judgment—Juvenile,’ is used to notify the minor and his or her parent or guardian.* There is a box to check on the JV–750 form indicating that the JV–751 form is attached.” (*In re C.W.* (2012) 208 Cal.App.4th 654, 659 (*C.W.*), italics added.)³

“In addition, the prosecutor’s ‘written notification to the minor’ of the minor’s eligibility must include, inter alia, ‘[a] full description of the procedures for deferred

³ All further citations to rules are to the California Rules of Court, unless otherwise indicated.

entry of judgment’ (§ 791, subd. (a)(1)) and ‘[a] clear statement that, in lieu of jurisdictional and disposition hearings, the court may grant a deferred entry of judgment with respect to any offense charged in the petition, provided that the minor admits each allegation contained in the petition and waives time for the pronouncement of judgment’ (§ 791, subd. (a)(3)).” (*C.W., supra*, 208 Cal.App.4th at p. 660.)

“The court *must*[italics added] issue Citation and Written Notification for Deferred Entry of Judgment—Juvenile (form JV-751) to the child’s custodial parent, guardian, or foster parent. The form must be personally served on the custodial adult at least 24 hours before the time set for the appearance hearing.” (Rule 5.800(c), italics omitted.)

“Once the threshold determination of eligibility is made, the juvenile trial court has the ultimate discretion to rule on the minor’s *suitability* for DEJ. [Citation.] Suitability for DEJ is within the court’s discretion after consideration of the factors specified by statute and rule of court, and based upon the standard of whether the minor will derive benefit from ‘ “ “education, treatment and rehabilitation” ’ ’ ’ rather than a more restrictive commitment. [Citation.]” (*C.W., supra*, 208 Cal.App.4th at p. 660, italics added.)

With this legal framework in mind, we turn to the procedural history of appellant’s juvenile petition and will then address his issues as to notification of eligibility and the court’s failure to address his suitability for DEJ.

B. Procedural history

On June 7, 2011, the petition was filed in the Juvenile Court of Stanislaus County, which alleged that appellant was a juvenile within the meaning of section 602, subdivision (a), based on his commission of count I, vehicle theft, and count II, evasion of a peace officer. The petition identified appellant’s mother as his custodial parent and gave her address.

1. DEJ Eligibility Forms

Also on June 7, 2011, the district attorney's office filed Form JV-750, "Determination of Eligibility" for DEJ, and declared that appellant was eligible for DEJ because he was 14 years or older; alleged to have committed at least one felony offense; there was no allegation that he committed an offense described in section 707, subdivision (b); he had not been previously declared a ward of the court based on the commission of a felony; he had never been committed to the California Department of Corrections and Rehabilitation, Division of Juvenile Justice; he had never been on formal or informal probation; and he was eligible for probation.

Form JV-750 also stated that that Form JV-751, "Citation and Written Notification" was attached.

Form JV-751, as included in the appellate record, is directly attached to Form JV-750. Form JV-751 generally declared that it contained written notification to the minor and his parents of the provisions, terms, and conditions of DEJ.

A declaration of personal service was attached which stated that Forms JV-750 and JV-751, Determination of Eligibility and Citation and Written Notification for Deferred Entry of Judgment, were personally served on appellant on June 8, 2011. There is no proof of service indicating that any of these forms was served on appellant's mother or his counsel.

2. Arraignment

On June 8, 2011, the juvenile court conducted the arraignment. Appellant and his mother were present. Appellant was being held in juvenile hall. The court appointed the public defender to represent appellant. Appellant, through his attorney, waived formal arraignment and denial the allegations in the petition. The court agreed with the probation department's recommendation for appellant to remain in juvenile hall. The court scheduled the pretrial hearing. The reporter's transcript contains no mention or

discussion of DEJ with appellant or his mother, even though the proof of service states that Forms JV-750 and JV-751 were personally served on appellant on that date.

The minute order for the June 8, 2011, hearing has boxes checked to reflect that “[n]otice has been given as required by law,” but did not clarify the subject or parameters of that notice. The boxes on the minute order were also checked to reflect that counsel was appointed, the information on the face of the petition was confirmed, appellant and his attorney waived formal reading of the petition, appellant denied the allegations, and that the court found it appropriate for appellant to remain in custody. There is no specific mention of notice regarding DEJ.

3. Further pretrial proceedings

On June 15, 2011, the court convened the pretrial hearing. Appellant and his mother were present. Appellant waived his speedy trial rights. The court amended the petition to correct appellant’s name. The reporter’s transcript contains no mention or discussion of DEJ.

On July 13, 2011, the court convened the scheduled jurisdiction hearing. Appellant and his mother were present. The district attorney requested a continuance because a witness was unavailable. Appellant requested to be released from juvenile hall to his mother’s custody. The court agreed and released appellant to his mother’s custody, and continued the jurisdictional hearing. There was no discussion of DEJ.

On July 28, 2011, the court convened a hearing on the allegation that appellant violated the terms of his house arrest, based on the discovery of marijuana and Vicodin in his bedroom. Appellant’s mother was present. The court terminated house arrest and ordered appellant detained in juvenile hall. There was no discussion of DEJ.

4. Contested jurisdictional hearing

On September 13, 2011, the court conducted appellant’s contested jurisdictional hearing. Appellant’s mother was present. The court found the petition’s allegations were true. Defense counsel made the following comments about DEJ:

“In terms of D.E.J., obviously he’s *not eligible*. [¶] *But the Probation stance was that he was simply unsuitable from the get-go*. And that was clearly in the information brought forward to me. And so I understand that and we understood that going in.”⁴ (Italics added.)

The court did not make any comments about DEJ. Instead, the court instructed appellant and his mother to make an appointment and meet with the probation officer in preparation for the dispositional hearing.

5. Dispositional hearing

On September 27, 2011, the court conducted the dispositional hearing. Appellant and his mother were present. The court reviewed the probation report, which stated the following about DEJ:

“The undersigned did not consider Deferred Entry of Judgment due to the serious nature of the offense in that significant loss of property or life could have arisen as a result of the minor’s actions.”

The court did not make any comments about defendant’s suitability for DEJ, but a handwritten note next to this paragraph states: “juris-not elig.”⁵

The court declared defendant a ward of the court, and ordered him confined to juvenile hall for 103 days, with credit for 103 days served. The maximum term of confinement was 44 months. The court placed defendant on formal probation, to reside in his mother’s custody and under the probation officer’s supervision, subject to various terms and conditions.

⁴ Defense counsel’s comment that appellant was not “eligible” for DEJ is contrary to the district attorney’s June 8, 2011, declaration that appellant was eligible. On appeal, respondent does not argue that appellant was not eligible for DEJ or that the district attorney’s determination of eligibility was erroneous.

⁵ The court’s handwritten notation is again inconsistent with the district attorney’s original determination that appellant was eligible for DEJ. The court never made any statements or comments that it found appellant was not suitable for DEJ.

C. Notice to appellant's mother

Appellant's first contention is that his mother, as his custodial parent, never received Forms JV-750 and JV-751, the requisite notices that the district attorney had determined that he was eligible for DEJ, as required by sections 791 and 792, and California Rules of Court, rule 5.800(b). Respondent concedes the record lacks affirmative evidence that the requisite notices were provided to appellant's mother, but contends that we must presume the court complied with its official duty, pursuant to Evidence Code section 664, and provided notice. In further support of this argument, respondent points to the June 8, 2011, minute order, which contains a checked box marked, "[n]otice has been given as required by law."

C.W., *supra*, 208 Cal.App.4th 654 addressed a notice issue very close to the situation in this case. In *C.W.*, the prosecutor determined the minor was eligible for DEJ and prepared Form JV-750. However, the prosecutor did not check the box on Form JV-750 to indicate that Form JV-751, Citation and Written Notification for DEJ, was attached, and the prosecutor failed to otherwise notify the juvenile and his custodial parent/guardian, at any of the hearings, of the minor's eligibility pursuant to sections 791 and 792. (*Id.* at p. 660.)

C.W. held the prosecutor failed to give the requisite notice and remanded the matter for further proceedings. (*C.W.*, *supra*, 208 Cal.App.4th at pp. 662-663.) In doing so, *C.W.* rejected the Attorney General's argument, similar to the one raised in this case, that "because there is no affirmative evidence in the record [the minor] did *not* receive notice of her DEJ eligibility, she must be presumed to have received such notice. In support of this assertion, the Attorney General cites the statutory presumption 'that official duty has been regularly performed' (Evid.Code, § 664) and the maxim that a lower court's orders are presumed correct as to matters on which the record is silent. [Citation.]" (*C.W.*, *supra*, 208 Cal.App.4th at p. 660, italics in original.)

"Here, however, we do not have a completely silent record. Rather, the record affirmatively reflects that the prosecuting attorney did not check the

box indicating that a citation and notification regarding DEJ (form JV-751) was attached. Moreover, no form JV-751 appears in the record, *nor is there any evidence that the juvenile court served C.W. and her parent or guardian with such a form, as required by California Rules of Court, rule 5.800(c). Likewise, DEJ was never mentioned at any of the hearings.* In our view, the existence of these omissions, in the context of an otherwise complete record, is sufficient to rebut the presumption that C.W. was properly advised of her DEJ eligibility either by the prosecutor or by the juvenile court. [Citation.]” (C.W., *supra*, 208 Cal.App.4th at pp. 660-661, italics added.)

C.W. also rejected the Attorney General’s invitation to ignore the “glaring deficiencies in the record” and presume the minor was notified about her eligibility for DEJ by her attorney. (C.W., *supra*, 208 Cal.App.4th at p. 661.)

“As the Attorney General implicitly acknowledges, however, *if C.W.’s trial counsel did not advise her regarding her DEJ eligibility before she proceeded to the contested jurisdictional hearing, that omission could constitute a ground for a habeas corpus petition asserting ineffective assistance of counsel. In the interest of judicial economy, it is both appropriate and preferable for us to consider the matter on direct appeal.* [Citation.]” (C.W., *supra*, 208 Cal.App.4th at p. 661, italics in original.)

C.W. thus concluded there was no evidence the minor and his parent/guardian received of his DEJ eligibility as required by statute. (C.W., *supra*, 208 Cal.App.4th at p. 662-663; see also *In re Luis B.* (2006) 142 Cal.App.4th 1117, 1123 (*Luis B.*))

We agree with the analysis in C.W. and similarly find there is no evidence in this record that appellant’s mother, as his custodial parent, received notice of his DEJ eligibility, either by personal service of Forms JV-750 and JV-751, or during any of the juvenile proceedings in this case. As in C.W., we decline to rely on the presumption that the court performed its official duties. While the June 8, 2011, minute order contains a checked box stating that “legal notice” was given to appellant, that box is followed by other entries relating to the juvenile’s right to counsel and the reading of the information, and there is no evidence that notice addressed DEJ.

D. The court's failure to determine appellant's suitability

Appellant next contends that in addition to the lack of notice, the juvenile court committed error when it failed to determine his suitability for DEJ, even though the prosecutor had declared he was eligible for DEJ.

After the threshold determination of eligibility is made, the juvenile court “has the ultimate discretion to rule on the suitability of the minor for DEJ after consideration of the factors specified in rule 1495(d)(3) and section 791, subdivision (b), and based upon the ‘standard of whether the minor will derive benefit from ‘education, treatment, and rehabilitation’ rather than a more restrictive commitment. [Citations.]” ’ [Citations.] The court may grant DEJ to the minor summarily under appropriate circumstances (rule 1495(d)), and if not must conduct a hearing at which ‘the court *shall* consider the declaration of the prosecuting attorney, any report and recommendations from the probation department, and any other relevant material provided by the child or other interested parties.’ (Rule 1495(f), italics added.)” (*Luis B.*, *supra*, 142 Cal.App.4th at p. 1123.)

“While the court retains discretion to deny DEJ to an eligible minor, the duty of the prosecuting attorney to assess the eligibility of the minor for DEJ and furnish notice with the petition is mandatory, *as is the duty of the juvenile court to either summarily grant DEJ or examine the record, conduct a hearing, and make ‘the final determination regarding education, treatment, and rehabilitation....’* [Citations.] ... *The court is not required to ultimately grant DEJ, but is required to at least follow specified procedures and exercise discretion to reach a final determination once the mandatory threshold eligibility determination is made.* [Citation.]” (*Luis B.*, *supra*, 142 Cal.App.4th at p. 1123, italics added.)

The Attorney General acknowledges that *Luis B.*, *supra*, 142 Cal.App.4th 1117 requires the court to make the suitability finding, but argues the juvenile court was not required to determine appellant's suitability because he denied the charges and requested

a jurisdictional hearing in this case, which relieved the court of its duty to determine his suitability for DEJ.

Again, this identical issue was addressed in *C.W.*, where the juvenile court failed to make a suitability finding, and the Attorney General similarly argued that the court was not required to determine the minor's suitability for DEJ since the minor denied the charges and requested a jurisdictional hearing. (*C.W.*, *supra*, 208 Cal.App.4th at p. 661.) *C.W.* rejected the Attorney General's argument:

“Here, the Attorney General suggests that the juvenile court was not required to make a threshold suitability determination in this case because *C.W.* never admitted any allegations in the petition. In support of this position, the Attorney General relies on *In re Kenneth J.* (2008) 158 Cal.App.4th 973 ... and *In re Usef S.* (2008) 160 Cal.App.4th 276.... In those cases, however, the minors were given notice that they were eligible for DEJ but would be considered for it only if they admitted the allegations of the petition. [Citations.] Thus, *Kenneth J.* and *Usef S.* stand for the proposition that a juvenile court is excused from its statutory duty to determine a DEJ-eligible minor's suitability for DEJ if the minor—after receiving notice of his or her DEJ eligibility—nonetheless rejects the possibility of DEJ by contesting the charges. Here, as discussed, there is no evidence whatsoever in the record on appeal that *C.W.* was ever advised of her eligibility for DEJ at any point in the proceedings. Thus, unlike in *Kenneth J.* and *Usef S.*, it cannot be said that *C.W.* chose not to pursue DEJ, as there is no indication that she was aware of her eligibility for it. Consequently, the juvenile court in this case was not excused from the mandatory statutory duty to consider whether *C.W.* was suitable for DEJ.” (*C.W.*, *supra*, 208 Cal.App.4th at p. 662.)

In the instant case, as in *C.W.*, appellant did not waive review of the court's failure to consider his suitability for DEJ based on his decision to deny the allegations in the petition and request a contested jurisdictional hearing, since his custodial parent was never notified, and the Attorney General's reliance on *Kenneth J.* and *Usef S.* is inappropriate.

We further note that while the record is silent as to whether appellant's mother was notified about his DEJ eligibility, there are some conflicting statements as to both his eligibility and suitability. As explained *ante*, the district attorney prepared Form JV-750

and stated that appellant was eligible for DEJ. At the jurisdiction hearing, after the court found the petition's allegations true, defense counsel stated:

“In terms of D.E.J., obviously *he's not eligible*. [¶] *But the Probation stance was that he was simply unsuitable from the get-go*. And that was clearly in the information brought forward to me. And so I understand that and we understood that going in.” (Italics added.)

At the disposition hearing, the court reviewed the probation report which stated the following about DEJ:

“The undersigned [presumably the probation officer] did not consider Deferred Entry of Judgment due to the serious nature of the offense in that significant loss of property or life could have arisen as a result of the minor's actions.”

The court did not make any comments about the probation report's reference to DEJ. However, there is a handwritten note in the probation report, next to the DEJ paragraph, which states: “juris-not elig.”

These various notes and comments are inconsistent. First, the district attorney filed the appropriate form which found appellant was eligible for DEJ, which is contrary to defense counsel's statement at the close of the jurisdiction hearing, that appellant was “obviously” not eligible and the probation department believed he was not suitable. Second, the probation officer stated that appellant was not suitable for DEJ, but the court never made any comments about DEJ or the requisite findings about whether or not appellant was not suitable. Third, the handwritten note in the probation report, that appellant was not “elig,” is also inconsistent with the entirety of the record: the district attorney declared appellant was eligible, the probation officer believed he was not suitable, and the court never made the requisite suitability findings. Indeed, the record suggests the court was not aware that the district attorney initially found appellant was *eligible* for DEJ. The court, and not the probation officer, retained the mandatory duty to determine whether appellant was suitable for DEJ.

We will thus set aside the court’s jurisdiction and disposition orders and remand the matter for further appropriate proceedings.

II. Substantial evidence⁶

Appellant contends there is insufficient evidence to support the court’s finding that he violated Vehicle Code section 10851, subdivision (a), as alleged in count I.

“The same standard of appellate review is applicable in considering the sufficiency of the evidence in a juvenile proceeding as in reviewing the sufficiency of the evidence to support a criminal conviction. In either type of case, we review the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence—that is, evidence that is reasonable, credible and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.” (*In re Sylvester C.* (2006) 137 Cal.App.4th 601, 605, fns. omitted.)

“To establish a [minor’s] guilt of violating Vehicle Code section 10851, subdivision (a), the prosecution is required to prove that the [minor] drove or took a vehicle belonging to another person, without the owner’s consent, and that the [minor] had the specific intent to permanently or temporarily deprive the owner of title or possession. [Citation.] Knowledge that the vehicle was stolen, while not an element of the offense, may constitute evidence of the defendant’s intent to deprive the owner of title and possession. [Citation.] [¶] Possession of recently stolen property itself raises a strong inference that the possessor knew the property was stolen; only slight corroboration is required to allow for a finding of guilt. [Citation.] This principle, applicable to theft offenses, applies as well to the unlawful driving of a vehicle.

⁶ Since we are remanding the matter for further appropriate proceedings as to DEJ, it is technically unnecessary to address appellant’s remaining contentions, which would be rendered moot if the court granted DEJ. (See, e.g., *Luis B.*, *supra*, 142 Cal.App.4th at p. 1124, fn. 4.) Nevertheless, we will briefly address the issues since the court has the option to reinstate the jurisdictional and dispositional orders, to avoid the need for further appeal of those specific issues if the court reinstates the orders.

[Citation.] [¶] ... [¶] [T]he slight corroboration that permits an inference that the possessor knew that the property was stolen may consist of no explanation, of an unsatisfactory explanation, or of other suspicious circumstances that would justify the inference. [Citation.]” (*People v. O’Dell* (2007) 153 Cal.App.4th 1569, 1574-1575, fns. omitted.)

In this case, Perez and Ayarza identified appellant as the driver of their stolen minivan. They saw appellant driving the minivan out of a nightclub parking lot, at a location less than 10 minutes from where the minivan had been stolen. When Ayarza tried to follow the minivan, the driver accelerated and tried to evade him. Deputy Moreno joined the pursuit and tried to conduct a traffic stop, but the driver of the minivan failed to stop, traveled over 55 miles per hour, went through a stop sign, swerved and lost control, turned into an alley, and crashed. Appellant and his passenger fled, but appellant was taken into custody in the vicinity, and refused to divulge the name of his cohort.

The court’s finding as to count I is supported by substantial evidence, based on the victims’ positive identifications of appellant as the driver, appellant’s evasive maneuvers when they followed him, his refusal to stop for the deputy, the high speed and erratic chase, and his attempt to immediately flee after crashing the van, all of which constituted circumstantial evidence of his intent to deprive the owner of possession.

III. Probation conditions

Appellant next challenges some of the conditions of probation imposed by the court: that he could not “use or possess any alcohol, drug paraphernalia or controlled substances without a valid prescription; he could “not possess ... stolen property,” and he could not “have any unexcused absences or tardies; apply yourself to schoolwork and good conduct; do not leave school grounds during school hours, including lunch periods.” Appellant argues the conditions are unconstitutionally vague because they are subjective and lack a “knowledge” requirement. The Attorney General concedes the point as to some of the conditions.

Since we are remanding the matter for further proceedings on appellant's eligibility and suitability for DEJ, we further direct the court and the parties to address the validity of the probation conditions and, if necessary, modify them accordingly.

DISPOSITION

The juvenile court's jurisdictional and dispositional orders are vacated. The matter is remanded to the juvenile court for further proceedings in compliance with Welfare and Institutions Code section 790 et seq., and California Rules of Court, rule 5.800. If, as a result of those proceedings, appellant elects DEJ, the juvenile court shall exercise its discretion regarding whether or not appellant is suitable for the grant of DEJ.

If the juvenile court denies DEJ to appellant, it shall consider the validity of appellant's probation conditions and whether those conditions are unconstitutionally vague. Thereafter, the juvenile court shall reinstate the judgment, including any modifications, subject to appellant's right to have the denial of DEJ and any additional findings and orders reviewed on appeal. (See, e.g., *Luis B.*, *supra*, 142 Cal.App.4th at pp. 1123-1124; *C.W.*, *supra*, 208 Cal.App.4th at pp. 662-663; *In re D.L.* (2012) 206 Cal.App.4th 1240, 1245-1246.)