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

In re FELIX P., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

FELIX P.,

Defendant and Appellant.

F064296

(Super. Ct. No. JJD037098)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Juliet L. Boccone, Judge.

Hassan Gorguinpour, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Cornell, Acting P.J., Gomes J., and Detjen, J.

Appellant, Felix P., was initially adjudged a ward of the juvenile court in 1990; he was readjudged a ward in four subsequent wardship proceedings; and, following his most recent adjudication in 1992, he was committed to the California Youth Authority (CYA).¹

One of the offenses of which appellant stands adjudicated is annoying or molesting a child under the age of 18 (Pen. Code, § 647.6, subd. (a)(1)),² a misdemeanor.

Under the version of section 290, subdivision (d) in effect at the time of appellant's commitment to CYA, a minor committed to CYA based on an adjudication of any of certain enumerated offenses, including a violation of section 647.6 occurring after January 1, 1988, was required to comply with sex offender registration requirements upon discharge from CYA. (Former § 290, subd. (d)(2).)³ In January 2012, appellant filed a "notice and motion to vacate registration requirements under Penal Code § 290.008" (petition). (Unnecessary capitalization omitted.) Following a hearing, the

¹ The CYA is now known as the Department of Corrections and Rehabilitation, Division of Juvenile Justice (DJJ).

² Except as otherwise indicated, all statutory references are to the Penal Code.

³ At the time of appellant's 1992 disposition, section 290, subdivision (d) provided as follows: "Any person who is discharged or paroled from the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section" (former § 290, subd. (d)(2)). A person's duty to register under section 290, subdivision (d) terminated when the person reached age 25 (former § 290, subd. (d)(4)). "Effective January 1, 1995, section 290 was amended to abolish this restriction and to impose a lifetime duty of registration on all such persons who were discharged or paroled from juvenile commitments on or after January 1, 1986. ([Former] § 290, subd. (d)(1).)" (*People v. Allen* (1999) 76 Cal.App.4th 999, 1001.) The provisions of former section 290, as amended in 1995, are now found, in substantively identical form, in section 290.008.

court ruled it lacked jurisdiction to grant the relief requested. The instant appeal followed.

Appellant's appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, with citations to the record, raises no issues, and asks that this court independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) Appellant has not responded to this court's invitation to submit additional briefing. We affirm.

BACKGROUND

In June 1990, appellant, then 15 years old, was adjudged a ward of the juvenile court after he admitted an allegation that he was beyond the control of his parent(s) or guardian(s) (Welf. & Inst. Code, § 601, subd. (a)). He was readjudged a ward of the court for the first time in October 1990, under Welfare and Institutions Code section 602, following his no contest plea to violating section 647.6, subdivision (a)(1). In each of three subsequent proceedings, appellant was readjudged a ward of the court for various offenses and probation violations, most recently in May 1992 for disobeying the rules of the group home to which he had been committed. Following appellant's most recent adjudication, the court ordered appellant committed to CYA and, based on appellant's prior adjudications, including his 1990 section 647.6 adjudication, declared his maximum term of physical confinement (MTPC) to be four years ten months.

DISCUSSION

In a juvenile case, the MTPC is defined as "the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court." (Welf. & Inst. Code, § 726, subd. (c).) "After a new petition is sustained under [Welfare and Institutions Code] section 602, ... the court may consider the juvenile's entire record before exercising its discretion at the dispositional hearing and may rely on prior

sustained section 602 petitions in determining the proper disposition and maximum period of confinement.’ [Citation.] [Welfare and Institutions Code] [s]ection 726 permits the juvenile court to aggregate terms on the basis of previously sustained section 602 petitions in computing the maximum period of confinement. [Citation.] ‘Thus, section 726 authorizes the court in a section 602 proceeding to “aggregate the period of physical confinement on multiple counts, or multiple petitions, including previously sustained petitions adjudging the minor a ward within Section 602”’ [Citation.] Aggregation is not mandatory or automatic, but rests within the sound discretion of the juvenile court. [Citation.]’ (*In re Adrian R.* (2000) 85 Cal.App.4th 448, 454.)

In the instant case, as indicated above, in 1992 when the juvenile court ordered appellant committed to CYA, in setting appellant’s MTPC the court aggregated the terms for offenses adjudicated in previously sustained petitions, including appellant’s 1990 violation of section 647.6. As a result, appellant was committed to CYA “because of” that offense, and therefore, under former section 290, subdivision (d)(2), became subject to the statutory sex offender registration requirements. (*In re Alex N.* (2005) 132 Cal.App.4th 18, 24, italics omitted.)

In his petition, appellant argued as follows: “[The juvenile court in 1992] did not utilize [its] discretion at the disposition whether to aggregate his [section] 647.6 offense along with his other offenses. Instead, [the court] simply adopted the probation officer’s recommendation regarding the maximum period of confinement [citation], whereas the court was required to exercise discretion in the imposition of that term which resulted in [appellant’s] commitment to CYA.” He argued further that this claim could be raised in a petition for writ of error *coram nobis* because he had “no other available statutory or adequate remedies,” and that “a writ of coram nobis should appropriately issue here vacating his 1992 disposition.”

However, “““The writ [of error *coram nobis*] will properly issue only when the petitioner can establish three elements: (1) that some fact existed which, without his fault or negligence, was not []presented to the court at the trial and which would have prevented the rendition of the judgment; (2) that the new evidence does not go to the merits of the issues of fact determined at trial; and (3) that he did not know nor could he have, with due diligence, discovered the facts upon which he relies any sooner than the point at which he petitions for the writ. [Citations.]” [Citations.]’ [Citations.]” (*People v. Dubon* (2001) 90 Cal.App.4th 944, 950-951.) Appellant made no such showing below. Moreover, the time for appealing the 1992 disposition has long since passed. (See *In re Gary R.* (1976) 56 Cal.App.3d 850, 852, 853 (*Gary R.*) [“The time limit to file the notice of appeal is 60 days from the applicable order”]; Welf. & Inst. Code, § 800 [“A judgment in a proceeding under Section ... 602 may be appealed from, by the minor, in the same manner as any final judgment”].) The court did not err in finding it lacked jurisdiction to address appellant’s claim. (*Gary R.*, at p. 853 [“Unless the notice is actually or constructively filed within the relevant period, the appellate court *has no jurisdiction* to determine the merits of the appeal and *must* dismiss the appeal”].)

Following independent review of the record, we have concluded that no reasonably arguable legal or factual issues exist.

DISPOSITION

The judgment is affirmed.