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

In re RAYMOND G., a Person Coming Under  
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

RAYMOND G.,

Defendant and Appellant.

F072800

(Fresno Super. Ct.  
No. 13CEJ600528-2V)

**OPINION**

**THE COURT**\*

APPEAL from a judgment of the Superior Court of Fresno County. Gregory T. Fain, Judge.

Robert McLaughlin, under appointment by the Court of Appeal, for Defendant and Appellant.

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

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\* Before Levy, Acting P.J., Poochigian, J. and Peña, J.

## INTRODUCTION

Defendant/appellant Raymond G., a juvenile, admitted that he committed a misdemeanor, assault by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4)), and he was placed on probation. He failed to comply with the terms and conditions of probation. The court reinstated defendant on probation but vacated a scheduled hearing pursuant to Welfare and Institutions Code<sup>1</sup> section 786, which provides for the court to dismiss the petition and seal all records if the minor satisfactorily completes probation.

On appeal, his appellate counsel has filed a brief which summarizes the facts with citations to the record, raises no issues, and asks this court to independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). In the brief, however, counsel states that defendant has requested this court review the juvenile court's decision to vacate and deny relief under section 786. We affirm.

## FACTS

On the afternoon of March 12, 2015, defendant, who was 15 years old, approached J. in the parking lot of an apartment complex. Defendant asked J. if he could borrow J.'s bicycle. J. said no. Defendant became agitated and grabbed J. from behind. Defendant threw J. to the ground, got on top of him, and punched him in the head with his fists. The assault continued for about three minutes until a member of J.'s family arrived and broke it up.

J. suffered sustained redness and swelling to both sides of his head. He had scratch marks under his left ear. He complained of extreme pain to his head and was taken to the hospital.

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<sup>1</sup> All further statutory citations are to the Welfare and Institutions Code unless otherwise indicated.

An officer detained defendant, who appeared to be under the influence of narcotics. Defendant said he had smoked marijuana. J. later identified defendant in a photographic lineup.

Defendant was booked into the Juvenile Justice Camp. Defendant told the probation officer it was a mutual fight, it was fair, and they were fighting about a girl.

### **Procedural history**

On March 16, 2015, a juvenile wardship petition (§ 602) was filed in the Superior Court of Fresno County, which alleged defendant violated Penal Code section 245, subdivision (a)(4), felony assault by means of force likely to produce great bodily injury. The district attorney determined defendant was not eligible for deferred entry of judgment.

On April 7, 2015, the district attorney reduced the charge to misdemeanor assault in violation of Penal Code section 245, subdivision (a)(4). Defendant admitted the allegation. He was released to his mother's custody on an electronic monitor.

### **The dispositional hearing**

On April 22, 2015, the court conducted the dispositional hearing. Defendant had been on independent study but he planned to return to school immediately. The court told defendant that he had a lot of potential and encouraged him to return to high school and stay sober.

The court declared defendant a ward and placed him on probation until May 22, 2016. The court terminated electronic monitoring. The court ordered defendant to attend school every day, abide by curfew, obey all laws, complete 50 hours of community service, refrain from using marijuana and any other drugs or narcotics, submit to chemical testing, and attend individual and substance abuse counseling. The court advised defendant that he had to follow these conditions "to the letter" so that he would not return to court.

The court set a review hearing for April 22, 2016, to determine whether defendant's records should be sealed pursuant to section 786.

### **Probation violation**

On November 16, 2015, a supplemental petition for modification was filed, which alleged defendant violated probation because he did not attend school daily and on time, he failed to attend individual counseling, and he tested positive for marijuana.

The probation officer reported defendant had completed 25 hours of community service. However, he only attended school on two out of 43 enrolled days, and failed to attend counseling sessions as ordered. Defendant had been provided with several opportunities to correct his behavior – he was verbally counseled, placed on a Behavior Modification Contract, and given multiple directives to attend school – but he failed to comply with the probation officer's directives.

### **Hearing on probation violation**

On November 18, 2015, the court conducted a hearing on the probation violation. Defendant admitted that he violated probation by failing to attend school and testing positive for marijuana on October 8, 2015.

The People requested defendant receive 20 days. The probation officer stated defendant's school attendance had been dismal, but he completed 50 hours of community service and the aggressive offender program. The probation officer said that keeping defendant in custody would be counterproductive because he belonged in school and he intended to re-enroll immediately.

Defendant's counsel stated that according to his mother, defendant had been doing well but he dealt with depression. His mother requested more frequent drug tests to help him get back on track.

Defendant's counsel objected to the probation report's recommendation to vacate the scheduled hearing pursuant to section 786, and argued that defendant could still satisfactorily complete probation.

The court encouraged defendant to return to school, work hard, and fulfill his obligations for his own benefit, because it believed he could succeed. Defendant said he understood.

The court revoked and reinstated probation, and released defendant to his mother's custody under electronic monitoring. The court again imposed the same terms and conditions, plus 40 additional hours of community service, substance abuse counseling, and weekly drug testing for eight weeks. Defendant would continue on probation until November 16, 2016.

The court vacated the scheduled section 786 hearing and denied relief under that section, because defendant had not "complied with probation for the full terms and conditions in a number of different areas."

On November 24, 2015, defendant filed a timely notice of appeal of the court's denial of relief under section 786.

### **DISCUSSION**

As noted above, defendant's counsel has filed a *Wende* brief with this court. The brief also includes the declaration of appellate counsel indicating that defendant was advised he could file his own brief with this court. By letter on March 9, 2016, we invited defendant to submit additional briefing.

Defendant did not personally submit additional briefing. In appellate counsel's *Wende* brief, however, counsel states that defendant "personally requests that the court address" whether the juvenile court committed error "when it vacated the April 22, 2016, section 786 hearing and denied [appellant] section 786 relief."

### **Section 786**

At the time of the juvenile court's order in this case, section 786 stated, in pertinent part, that if a minor "satisfactorily completes" an informal supervision program or a term of probation, the court "shall" order the juvenile petition dismissed, and seal all

records pertaining to that dismissed petition. (§ 786.) Section 786 did not define the meaning of “satisfactorily completes” probation.

“The ‘ “goal of statutory construction is to ascertain and effectuate the intent of the Legislature.” ’ [Citation.] In approaching this task, we must first look at the plain and commonsense meaning of the statute because it is generally the most reliable indicator of legislative intent and purpose. [Citation.] If there is no ambiguity or uncertainty in the language, the Legislature is presumed to have meant what it said, and we need not resort to legislative history to determine the statute’s true meaning. [Citation.]” (*People v. Cochran* (2002) 28 Cal.4th 396, 400–401.)

Satisfactorily is defined as: “In a way that fulfills expectations or needs; acceptably.” (Oxford Dict. <[http://www.oxforddictionaries.com/us/definition/american\\_english/satisfactorily](http://www.oxforddictionaries.com/us/definition/american_english/satisfactorily)> [as of Aug. 31, 2016].)

The court did not abuse its discretion when it found defendant failed to satisfactorily complete probation. The court placed defendant on probation and ordered him to attend school on a daily basis. Defendant agreed and said he would do so the following day. The court also ordered defendant not to use marijuana or any other drug, and defendant said he understood. Thereafter, defendant admitted he violated probation by failing to attend school, and did not dispute the probation officer’s report that he only attended two out of 43 school days. He also admitted that he tested positive for marijuana during the initial probationary period.

The court revoked probation based on these violations, but decided to reinstate defendant subject to additional terms and conditions which were designed to address his previous violations. In doing so, the court did not abuse its discretion when it determined he failed to “satisfactorily” complete his probationary period.

We note that, as of January 1, 2016, subdivision (c)(1) was added to section 786, and it states: “For purposes of this section, *satisfactory completion* of an informal program of supervision or another term of probation described in subdivision (a) shall be

deemed to have occurred if the person has no new findings of wardship or conviction for a felony offense or a misdemeanor involving moral turpitude during the period of supervision or probation *and if he or she has not failed to substantially comply with the reasonable orders of supervision or probation that are within his or her capacity to perform.* The period of supervision or probation shall not be extended solely for the purpose of deferring or delaying eligibility for dismissal of the petition and sealing of the records under this section.” (Amended by Stats. 2015, ch. 375, § 1.5, italics added.)

The court’s decision to deny relief under section 786 would be valid even if this newly enacted provision was retroactively applied to defendant’s case. While defendant did not commit any new offenses and another wardship petition was not filed, he failed to “substantially comply” with the reasonable probation orders to attend school daily and not to use marijuana.

After independent review of the record, we find that no reasonably arguable factual or legal issues exist.

#### **DISPOSITION**

The judgment is affirmed.