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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

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

THE PEOPLE,

Plaintiff and Respondent,

v.

Q.S.,

Defendant and Appellant.

G049486

(Super. Ct. No. DL048688)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Gregory W. Jones, Judge. Reversed and remanded.

Sylvia Whatley Beckham, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Julie L. Garland, Assistant Attorney General, Arlene A. Sevidal, Lise Jacobson, and Andrew Mestman, Deputy Attorneys General, for Plaintiff and Respondent.

\* \* \*

Q.S. was adjudicated a ward of the juvenile court, pursuant to a petition alleging he came within its jurisdiction due to his commission of a residential burglary at a time when someone other than an accomplice was present in the residence (Pen. Code, §§ 459, 460, subd. (a), 667.5, subd. (c)(21); all further statutory references are to this code), and his resistance, delay or obstruction of a peace officer in the lawful performance of duties (§ 148, subd. (a)(1).) The court found the burglary to be a felony, and the resisting to be a misdemeanor, and at the disposition hearing, ordered the minor to be placed on probation with several conditions, including that he spend 270 days in the Orange County Juvenile Hall and that, pursuant to section 29820, he be prohibited from owning a firearm until he reached the age of 30.

On appeal, the minor offers no challenge to the jurisdictional determination or his detention in Juvenile Hall. Instead, he argues only that the court erred by concluding section 29820 applied to his case and requests we strike the probation condition which prohibits him from owning or possessing firearms before he reaches age 30. The Attorney General agrees the statute was erroneously applied in this case, and that the probation condition restricting the minor's ownership or possession of firearms should be stricken. We agree as well.

## FACTS

Farzad Afravi was in his apartment in the afternoon of November 8, 2013, when he heard a noise coming from a bedroom. When he went to investigate, he discovered the minor in the bedroom. Afravi told the minor he was going to call the police, and the minor left through an open window.

Afravi did call the police, and a few hours later, a police officer who had been alerted to the description given by Afravi observed the minor at a shopping center. The officer approached the minor and his companion and asked to speak with them. Both

the minor and his friend ran away, and the minor was quickly apprehended in a nearby backyard.

At the contested jurisdictional hearing, Afravi identified the minor as his intruder. The court sustained the petition, finding true the allegations that the minor had committed first degree residential burglary with a non-accomplice present in the residence, and that he had resisted the police officer. The court determined the minor's maximum term of confinement for these offenses would be six years and four months.

At the dispositional hearing, the court ordered the minor to be placed on probation, with conditions including that he spend 270 days in the Orange County Juvenile Hall and that, pursuant to section 29820, he be prohibited from owning or possessing a firearm until he reaches age 30.

## DISCUSSION

Section 29820 states, in pertinent part, that any person who is both alleged to have committed an “offense described in subdivision (b) of Section 1203.073, any offense enumerated in Section 29805, or any offense described in Section 25850, subdivision (a) of Section 25400, or subdivision (a) of Section 26100” and “subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed [one of those alleged offenses] [¶] . . . [¶] shall not own, or have in possession or under custody or control, any firearm until the age of 30 years.” (§ 29820, subd. (a)(2), (b).)

However, as the minor points out, neither of the offenses he was found to have committed – residential burglary in violation of sections 459 and 460, subdivision (a), and resisting an officer in violation of section 148, subdivision (a)(1) – is listed as a qualifying offense in any of the provisions referenced in section 29820. The Attorney General agrees, and based on our own review of the various provisions, we agree as well.

Because section 29820 is not implicated when a juvenile commits the offenses the minor in this case was found to have committed, the court erred by relying on that statute as a basis for imposing a probation condition prohibiting the minor from owning or possessing a firearm before age 30.

#### DISPOSITION

The judgment is reversed and the case is remanded to the trial court with directions to strike the probation condition specifying the minor is prohibited from owning or possessing a firearm before age 30, and to reenter the judgment with no other changes.

RYLAARSDAM, J.

WE CONCUR:

O'LEARY, P. J.

MOORE, J.