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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

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

H037814  
(Santa Clara County  
Super. Ct. No. JV38581)

THE PEOPLE,

Plaintiff and Respondent,

v.

J.G.,

Defendant and Appellant.

J.G. admitted two counts of assault by means of force likely to produce great bodily injury as well as possession of a billy club and misdemeanor possession of a knife. To these charges was added a gang enhancement pursuant to Penal Code section 186.22, subdivision (b)(1)(B). At a contested dispositional hearing the court adjudged J.G. a ward of the court and committed him to the Santa Clara Juvenile Rehabilitation Facilities as well as imposing numerous conditions of probation. He objects to and appeals from the imposition of a probation condition prohibiting him from being within 50 feet of a courtroom or courthouse where he knows there is a gang related case going on. The claim on appeal is that the condition is unconstitutionally overbroad.

“In granting probation, courts have broad discretion to impose conditions to foster rehabilitation and to protect public safety pursuant to Penal Code section 1203.1 [citations].” (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1120-1121; see also *People v. Welch* (1993) 5 Cal.4th 228, 233.)

But, as we know a court’s discretion is never without boundaries. Discretion implies consideration and reason and is limited by constitutional safeguards. Appellant is quite right in insisting that conditions must be both reasonable and constitutional. Here J.G. provided the court with a basis for imposing condition 26, which states:

“You must not attend any gang-related case unless at least one of these things is true:

“1-You are a party to the case.

“2-You or a member of your immediate family is a victim of the activity charged in the case.

“3-You are there to obey a subpoena, summons, court order, or other official order to attend.

“4-A party’s attorney has asked you to testify or speak to the court.

“In all other cases, you must stay at least 50 feet away from the entrance to any courtroom or courthouse where you know there is a gang-related case going on.

“A gang related case is a court case that you know involved charges of gang-related activity, or other charges against a person you know or have been told by your probation officer is a member of a gang. A gang is a ‘criminal street gang’ as defined in section 186.22 of the Penal Code.

“You must not try to scare or otherwise cause anyone not to take part in a gang-related case. This includes a witness,

victim, juror or court worker. You must not try to get any witness in any court case not to testify. You must not try to get them to change their testimony.”

Based on the acknowledged deep commitment that J.G. seemed to have toward his gang, that he wanted to hurt the victim in order to gain respect and that he posted videos of himself and another kicking the head and face of the victim and that he freely admitted being associated with and/or being a member of the New Generation Norteno gang (NGN), the court was well within the boundaries of reason to restrict his ability to influence the outcome of other gang cases by restricting his access to courtrooms where the case being heard was gang-related.

Interestingly, the probation condition objected to by J.G. actually appears in one of our cases as suggested language. It is footnote 5 on page 1157 of *In re E.O.* (2010) 188 Cal.App.4th 1149 (*E.O.*). It does not appear that J.G. was aware of this case until the Attorney General filed her brief. In J.G.’s reply, however, the statement “In all other cases, you must stay at least 50 feet away from the entrance of any courtroom where you know there is a gang-related case going on” is taken to signify error. This language is taken directly from *E.O.* at footnote 5 on page 1157, but unimpeded, J.G. goes on to say “That requirement is overbroad and impinges upon appellant’s right to access public places and participate in civic activities. Such a requirement *was expressly disapproved* in both *People v. Perez* (2009) 176 Cal.App.4th 380, and in *In re E.O., supra*, 188 Cal.App.4th at [pages] 1157-1158.” It is true that *E.O., supra*, disapproved a court stay away condition because of over breadth but that condition is different from the condition here.

J.G. could have argued that *E.O., supra*, 188 Cal.App.4th 1149 was wrongly decided particularly as to the suggested language in footnote 5 on page 1157, that the trial court followed. There is no rational argument available that *E.O. disapproved* the condition imposed here on J.G.

**DISPOSITION**

The judgment of the trial court is affirmed.

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RUSHING, P.J.

WE CONCUR:

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PREMO, J.

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ELIA, J.