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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN RE J.G., a Person Coming Under )  
the Juvenile Court Law. )

S \_\_\_\_\_

PEOPLE OF THE STATE OF )  
CALIFORNIA, )

Court of Appeal  
No. C077056

Plaintiff and Respondent, )

Shasta County  
Superior Court  
No. JDSQ122933901

v. )

J.G., )

Defendant and Appellant. )

SUPREME COURT  
FILED

MAR 3 - 2017

APPELLANT'S PETITION FOR REVIEW

Jorge Navarrete Clerk

Of a partially-published decision by the Court of Appeal \_\_\_\_\_

(In re J.G. (2017) 7 Cal.App.5th 955)

Deputy

Third Appellate District  
Filed January 24, 2017

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**IN THE SUPREME COURT OF THE STATE OF CALIFORNIA**

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PEOPLE OF THE STATE OF CALIFORNIA,	)	Court of Appeal No. C077056
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Plaintiff and Respondent,	)	Shasta County Superior Court No. JDSQ122933901
v.	)	
	)	
J.G.,	)	
	)	
Defendant and Appellant.	)	
_____	)	

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PEOPLE OF THE STATE OF CALIFORNIA,	)	Court of Appeal No. C077056
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Plaintiff and Respondent,	)	Shasta County Superior Court No. JDSQ122933901
v.	)	
J.G.,	)	
	)	
Defendant and Appellant.	)	
_____	)	

TO THE HONORABLE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

J.G. petitions this Court for review following the partially-published decision of the Third Appellate District, filed on January 24, 2017 (*In re J.G.* (2017) 7 Cal.App.5th 955). A copy of the Court of Appeal’s opinion is attached.

**ISSUES PRESENTED FOR REVIEW**

I. When a juvenile court terminates a minor’s probation in a deferred entry of judgment (DEJ) case and then dismisses the Welfare and Institutions Code<sup>1</sup> section 602 petition, can it also convert unpaid restitution to a civil judgment? Or, does section 793, subdivision (c) prohibit such a conversion order because it states that following a dismissal “the arrest

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<sup>1</sup> All further non-designated statutory references are to the Welfare and Institutions Code.

upon which the judgment was deferred shall be deemed never to have occurred . . . .”

II. When setting restitution as a condition of DEJ probation, which requires the juvenile court to take into account a minor’s ability to pay, does a juvenile court err by:

- (a) treating a minor’s federal Supplemental Security Income (SSI) benefits or his father’s Social Security Disability (SSD) benefits as income for ability to pay purposes?
- (b) failing to reduce restitution to an amount the minor can repay during the deferral period or finding that a minor had the ability to pay \$36,381 in restitution when his family survived below the federal poverty line solely on the minor’s SSI benefits, his father’s SSD benefits, and food stamps?
- (c) setting restitution above the \$20,000 cap set forth in section 742.16, absent evidence the minor engaged in more than one tort?

**NECESSITY FOR REVIEW**

This Court should grant review to secure uniformity of decision and settle important questions of law. (See Cal. Rules of Court, rule 8.500(b)(1).)

In the published portion of the Court of Appeal’s opinion, it held that the juvenile court could convert unpaid restitution to a civil judgment when terminating DEJ probation and dismissing the section 602 petition. (Slip

Op., at pp. 9-12.)<sup>2</sup> That holding is in conflict with the analysis in *G.C. v. Superior Court* (2010) 183 Cal.App.4th 371, 378, recognizing that restitution does not survive the dismissal of a section 602 petition in the DEJ context and emphasizing the importance of discretion in setting a realistic restitution amount which the minor can satisfy during the deferral period. The holding also conflicts with section 793, the DEJ dismissal statute, which states that dismissal of the 602 petition should wipe the minor's slate clean as if the arrest underlying the petition had never occurred. This Court should grant review to secure uniformity of decision and to settle an important question of law that could possibly arise in any DEJ case involving restitution.

In the unpublished portion of its opinion, the Court of Appeal concluded that J.G.'s SSI benefits and his father's SSD benefits were properly treated as income for ability to pay purposes despite the fact there is a federal statute that protects SSI and SSD benefits from "execution, levy, attachment, garnishment, or *other legal process*." (42 U.S.C. §§ 407(a), 1383(d)(1), italics added). The Montana Supreme Court has held that

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<sup>2</sup> In the published portion of the opinion, the Court of Appeal also held that it had appellate jurisdiction over this case. (Slip Op., at pp. 6-9.) J.G. agrees with that conclusion and does not seek review on that ground.

treating SSI benefits as income when assessing an individual's ability to pay restitution amounts to "other legal process" in violation of the federal anti-alienation statute. (See *State v. Eaton* (Mont. 2004) 99 P.3d 661, 656-666.) The Indiana Supreme Court, however, reached the opposite conclusion. (*Kays v. State* (Ind. 2012) 963 N.E.2d 507, 510.)

Published California authority appears to be in agreement with Montana. (See *In re S.M.* (2012) 209 Cal.App.4th 21, 29-30 [holding that SSI benefits could not be considered income for ability to pay purposes because that "would be antithetical to the purpose of the SSI program of assuring a minimum level of income for the indigent blind, aged, and disabled."].) The Court of Appeal in this case disagreed with *S.M.* and followed the Indiana authority.

Also in the unpublished portion of its opinion, the Court of Appeal held that the juvenile court did not abuse its discretion by failing to make an ability to pay reduction to the \$36,381 restitution despite J.G. and his family's poverty. Again disagreeing with *G.C.*, *supra*, 183 Cal.App.4th 371, the Court of Appeal found that the juvenile court did not need to reduce the restitution to an amount J.G. was capable of repaying during the deferral period. The Court of Appeal's analysis renders the statutory requirement that ability to pay be taken into account a legal nullity. If a juvenile court



does not abuse its discretion by declining to reduce a disabled impoverished minor's restitution from \$36,381 to a lower amount on account of his inability to pay, it appears as though a juvenile court can never abuse its discretion, rendering the ability to pay requirements in sections 730.6 and 742.16 surplusage.

### **STATEMENT OF THE CASE AND FACTS**

For purposes of this petition only, J.G. incorporates the Court of Appeal's statement of the case and facts set forth in the Background section of the opinion. No petition for rehearing was filed in this case.

### **ARGUMENT**

#### **I. JUVENILE COURTS LACK JURISDICTION TO CONVERT RESTITUTION TO A CIVIL JUDGMENT IN A DEJ CASE; NOTHING SHOULD SURVIVE THE DISMISSAL OF THE SECTION 602 PETITION.**

Section 794 allows the juvenile court to impose victim restitution as a condition of DEJ probation according to "other provisions of this code." Sections 730.6 and 742.16 are other provisions of the Welfare and Institutions Code that deal with restitution. While those sections generally apply to individuals adjudged wards and not those on DEJ, who have never been adjudged wards, section 794 plainly incorporates section 730.6 and 742.16 with its "other provisions of this code" language.

Both sections 730.6 and 742.16 contain restitution conversion provisions that allow unpaid restitution to be converted to a civil judgment. (§§ 730.6, subd. (l), 742.16, subd. (j).) In the opening and reply briefs, J.G. argued that the conversion provisions do not apply in the DEJ context when probation has been terminated and the 602 petition has been dismissed. (See AOB, at pp. 12-25; ARB, at pp. 15-19.)

The Court of Appeal disagreed. The thrust of its analysis was section 786, which provides that restitution converted to a civil judgment survives the dismissal of a 602 petition in an informal supervision or probation context. (Slip Op., at p. 11.) However, section 786 is the informal supervision and probation dismissal statute, not the DEJ dismissal statute. Section 793 is the DEJ dismissal statute. Section 786 and 793 are materially different. A dismissal under section 793 is far broader than a dismissal under section 786. The Court of Appeal improperly conflated the two.

As the Court of Appeal observed, section 786 essentially carves out an exception for civil judgments. It provides that a dismissal of a section 602 petition following completion of probation shall result in the sealing of all the juvenile's records and shall make it as if the arrest has never occurred. (§ 786, subds. (a) & (b).) Section 786 then lists a number of exceptions, including the one set forth in subdivision (g)(1), which provides

that “This section does not prohibit a court from enforcing a civil judgment for an unfulfilled order of restitution ordered pursuant to section 730.6. A minor is not relieved from the obligation to pay victim restitution, restitution fines, and court-ordered fines and fees because the minor’s records are sealed.”

Like section 786, section 793 provides that the dismissal of the 602 petition shall result in the sealing of all records and that it shall be as if the underlying arrest had never occurred. (§ 793, subd. (c).) But unlike section 786, section 793 does not contain an express exception for restitution.

Section 793 contains only one exception: records can be accessed to determine whether the minor is eligible for DEJ in a future case. (*Ibid.*)

“The expression of some things in a statute necessarily means the exclusion of other things not expressed.” (*Gikas v. Zolin* (1993) 6 Cal.4th 841, 852.)

The juvenile court in this DEJ case had no jurisdiction to convert restitution to a civil judgment when dismissing the section 602 petition as doing so conflicts with section 793. In *G.C.*, *supra*, 183 Cal.App.4th at p. 378, the court made a similar observation when it instructed the juvenile court to set a DEJ restitution condition at an amount that the minor possessed the ability to pay during the deferral period.

Review should be granted to provide clarity and uniformity on this issue, which can arise in every DEJ case involving restitution.

**II. THE JUVENILE COURT ERRED BY USING J.G.'S FEDERAL BENEFITS TO CALCULATE HIS ABILITY TO PAY RESTITUTION, BY FAILING TO REDUCE THE TOTAL RESTITUTION FROM \$36,381 TO AN AMOUNT J.G. COULD REPAY DURING THE DEFERRAL PERIOD, AND BY IMPOSING MORE THAN \$20,000.**

*A. Anti-alienation of federal benefits*

Federal law prohibits “execution, levy, attachment, garnishment, or other legal process” of SSI and SSD benefits. (42 U.S.C. §§ 407(a), 1383(d)(1).) Nevertheless, the juvenile court treated J.G.’s monthly SSI benefit and his father’s monthly SSD benefit as income when concluding that he had the ability to pay \$36,381 in restitution. (See RT,<sup>3</sup> at pp. 1-3; RST 5.) On appeal, J.G. argued that the juvenile court’s treatment of SSI and SSD as income for ability to pay purposes violated the federal anti-alienation provisions and *In re S.M.*, *supra*, 209 Cal.App.4th 21, 29-30. The Court of Appeal disagreed, rejecting *In re S.M.* and following the Indiana Supreme Court’s decision in *Kays*, *supra*, 963 N.E.2d at p. 510. (Slip Op., at pp. 12-15.)

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<sup>3</sup> “RT” refers to the Reporter’s Transcript. “RST” refers to the Reporter’s Supplemental Transcript.

In *S.M.* the court held that SSI benefits cannot be considered income for ability to pay purposes because that “would be antithetical to the purpose of the SSI program of assuring a minimal level of income for the indigent blind, aged, and disabled.” (*In re S.M.*, *supra*, 209 Cal.App.4th 21, 29-30.) The Court of Appeal distinguished *S.M.* on the basis that the SSI benefits in that case were being treated as income for determining ability to pay legal fees and this case deals with a minor’s ability to pay restitution. (Slip Op., at p. 13.) This appears to be a distinction without a difference. Treating J.G.’s SSI benefits as income for ability to pay purposes is no less antithetical to the purpose of the SSI program because the juvenile court is doing so to impose victim restitution instead of attorney fees.

In *Kays*, the Indiana Supreme Court created a legal fiction: that considering federal benefits to determine whether a defendant had the ability to pay restitution does not violate the federal anti-alienation provision so long as the court does not order a defendant to actually use them to pay restitution. (*Kays*, *supra*, 963 N.E.2d at pp. 509-510.) This essentially allows a court to do indirectly what it is prohibited by federal law from accomplishing directly. When someone like J.G. has no other income, where, exactly, does the court think that restitution payments will come from? The *Kays* fiction encourages state courts to find innovative

ways to circumvent federal law, trivializing the Supremacy Clause.

*Kays*, however, reached its conclusion out of concern that failing to take into account federal benefits would “paint a distorted picture of her ability to pay restitution.” (*Ibid.*) The court provided the following example: “a debt-free defendant who lives with a family member and receives room and board at no charge may very well have the ability to pay restitution even if her only income is from social security.” (*Ibid.*) That circumstance is one that does not exist in this case. While the defendant in *Kays* might have had other resources aside from social security benefits from which restitution could be satisfied, the record in this case reflects that neither J.G. nor his family had any non-social security resources. (RST 1-11.)

Review should be granted to protect the poor from having their federal welfare and disability benefits directly or indirectly taken to satisfy restitution.

*B. Ability to pay reduction*

The juvenile court found that J.G. only possessed the ability to pay \$25 per month in restitution due to his family’s poor financial situation. (RT, at p. 6 [“the amount can’t be great because this family lives, you know, on the edge with the amount of income they have.”].) However, the juvenile court refused to reduce the total restitution amount to that which J.G. could

repay during the deferral period (\$25/month x 12 months = \$300). (See RT, at p. 6.) On appeal, J.G. argued this was error. The Court of Appeal disagreed, holding that the juvenile court was not required to reduce restitution to an amount J.G. was capable of repaying during the deferral period. (Slip Op., at pp. 15-16.) That analysis conflicts with *G.C., supra*, 183 Cal.App.4th at p. 378. It also runs afoul of section 793.

*G.C.* provided the following discussion of restitution in the DEJ context:

When judgment is deferred, the juvenile court is not required to order victim restitution; the restitution decision rests in the discretion of the juvenile court. (§ 794.) In exercising that discretion, the juvenile court may take any pertinent circumstances into account. Ability to pay would be one such circumstance . . . [T]he ability to pay must be a consideration “at the front end” One reason for this is to ensure that the victim receives compensation for the loss; since there will be no judgment, the victim would have no way to enforce the order if it is not satisfied during the deferral period. Just as important is that the court must make an ability-to-pay finding in order to avoid imposing a condition that will be impossible for the minor to satisfy. And when imposing a restitution order under section 742.16 . . . the court is statutorily required to find that the minor or his estate has the ability to pay it.

(*G.C., supra*, 183 Cal.App.4th at p. 378.)

The Court of Appeal’s holding in this case that the juvenile court “properly concluded that minor could make restitution payments in the future” and that a “minor’s obligation to pay victim restitution extends into

adulthood and beyond the termination of the juvenile court's jurisdiction" is irreconcilable with *G.C.* and section 793. (See Argument I, *supra.*)

Furthermore, the Court of Appeal found that the juvenile court did not abuse its discretion by finding that a minor whose family lived below the poverty line and survived solely on federal benefits possessed the ability to pay \$36,381 in restitution. If that was not an abuse of discretion, then the ability to pay requirements in sections 730.6 and 742.16 have been rendered a legal nullity. Absent direction from this Court, it appears that lower courts will feel free to read the ability to pay requirement out of the statute.

*C. Section 742.16's \$20,000 cap*

Section 742.16, subdivision (n) provides, in relevant part, "the maximum amount that a parent or a minor may be ordered to pay shall not exceed twenty thousand dollars (\$20,000) for each tort of the minor."

However, J.G. only admitted one count of vandalism. Nevertheless, the juvenile court imposed \$36,381, well above the \$20,000 cap. On appeal, J.G. asserted that the juvenile court erred by imposing more than \$20,000 absent evidence he committed more than one tort.

The Court of Appeal disagreed and held that J.G. forfeited the issue. (Slip Op., at p. 16.) The court reasoned that it would be unfair to impose a \$20,000 cap since "The juvenile court and the prosecutor did not have an



opportunity to address minor's specific claim, and facts concerning which acts of vandalism minor committed were not developed." (Slip Op., at p. 16.)

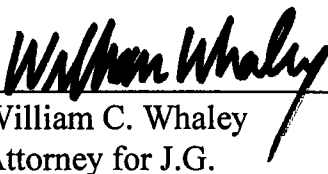
However, the language of section 742.16, subdivision (n) is not permissive. It states that the juvenile court "shall not" impose more than \$20,000 absent more than one tort of the minor. How could the juvenile court impose more than \$20,000 in this case where the record, as the Court of Appeal agrees, is undeveloped as to whether there was more than one tort? The issue is not forfeited since the restitution award lacks a factual basis. (See *People v. Blakenship* (1989) 213 Cal.App.3d 992, 997-998, fn. 5.) Review should be granted.

### CONCLUSION

For the reasons given, J.G. requests that this Court grant review to resolve these important issues of statewide importance.

Dated: March 2, 2017

Respectfully submitted,

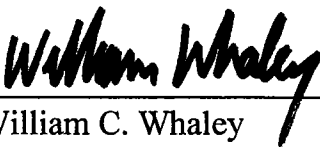
  
\_\_\_\_\_  
William C. Whaley  
Attorney for J.G.

**Certificate of Appellate Counsel Pursuant to rule 8.204(c)(1)  
and rule 8.360(b) of the California Rules of Court**

I, William Whaley, appointed counsel for appellant, certify pursuant to rule 8.204 of the California Rules of Court, that I prepared this Petition on behalf of my client, and that the word count for this brief is 3,398 words.

I certify that I prepared this document in WordPerfect and that this is the word count generated for this document.

Dated: March 2, 2017

  
\_\_\_\_\_  
William C. Whaley  
Attorney for Appellant

Re: *The People v. J.G.*, Case No. C077056

**DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY  
PLACEMENT AT PLACE OF BUSINESS FOR COLLECTION AND  
DEPOSIT IN MAIL**

(Code Civ. Proc., § 1013a, subd. (3); Cal. Rules of Court, rules 8.71(f) and 8.77)

I, *Debra Lancaster*, declare as follows:

I am, and was at the time of the service mentioned in this declaration, over the age of 18 years and am not a party to this cause. My electronic service address is [eservice@capcentral.org](mailto:eservice@capcentral.org) and my business address is 2150 River Plaza Dr., Ste. 300, Sacramento, CA 95833 in Sacramento County, California. On **March 2, 2017**, I served the persons and/or entities listed below by the method checked. For those marked "Served Electronically," I transmitted a PDF version of **APPELLANT'S PETITION FOR REVIEW** by TrueFiling electronic service or by e-mail to the e-mail service address(es) provided below. Transmission occurred at approximately **10:30 AM** For those marked "Served by Mail," I enclosed a copy of the document identified above in an envelope or envelopes, addressed as provided below, and placed the envelope(s) for collection and mailing on the date and at the place shown below, following the Central California Appellate Program's ordinary business practices. I am readily familiar with this business's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in sealed envelope(s) with postage fully prepaid.

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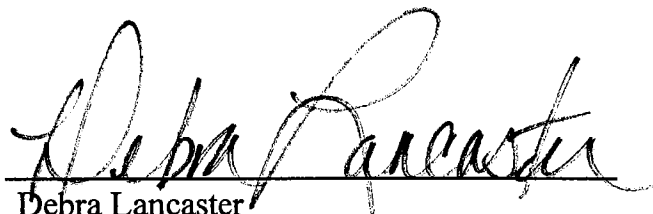
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Redding, CA 96001

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **March 2, 2017**, at Sacramento, California.

  
Debra Lancaster

# **ATTACHMENT**

CERTIFIED FOR PARTIAL PUBLICATION\*

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Shasta)

----

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

C077056

THE PEOPLE,

Plaintiff and Respondent,

v.

J.G.,

Defendant and Appellant.

(Super. Ct. No.  
JDSQ122933901)

APPEAL from a judgment of the Superior Court of Shasta County, Monique D. McKee, Judge. Affirmed.

William C. Whaley, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Brook A. Bennigson, Deputy Attorney General, for Plaintiff and Respondent.

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\* Pursuant to California Rules of Court, rules 8.1105 and 8.1110, this opinion is certified for publication with the exception of part III.

In lieu of adjudging minor J.G. a ward of the court based on his commission of trespass and felony vandalism, the juvenile court granted minor deferred entry of judgment and placed him on probation with terms and conditions including payment of restitution to the victim. Because minor eventually satisfied the terms and conditions of his probation with the exception of full payment of ordered restitution, the juvenile court terminated minor's probation, dismissed the wardship petition and converted the restitution order to a civil judgment. Minor appeals from the juvenile court's order.

Minor now contends (1) the court of appeal has jurisdiction to review the juvenile court's order because the order is a judgment within the meaning of Welfare and Institutions Code section 800, subdivision (a);<sup>1</sup> (2) a juvenile court can only convert a restitution order to a civil judgment if it has adjudged a minor a ward of the court; and (3) the juvenile court misapplied the law in assessing minor's ability to pay restitution.

In the published portion of this opinion, we conclude:

1. The challenged order is a judgment within the meaning of section 800, subdivision (a), because the juvenile court rendered a final determination of the rights of the parties in the wardship proceeding.

2. Even if a juvenile court has not adjudged a minor a ward of the court, it can convert an unfulfilled restitution order to a civil judgment when it terminates a minor's deferred entry of judgment probation and dismisses the wardship petition.

And in the unpublished portion of this opinion, we conclude:

3. Minor has not established a misapplication of the law.

We will affirm the judgment.

---

<sup>1</sup> Undesignated statutory references are to the Welfare and Institutions Code.

## BACKGROUND

The California Department of Parks and Recreation received information from local residents that a group of boys damaged brickwork, wood fences, and historic buildings at Shasta State Historic Park, and also threw pine cones and sticks into traffic on Highway 299. Five individuals, including the 14-year-old minor, confessed to participation in the offenses.

The People filed a petition to declare minor a ward of the juvenile court, alleging felony vandalism (Pen. Code, § 594, subd. (b)(2) -- count 1), felony throwing an object at a vehicle on a highway with intent to do great bodily injury (Veh. Code, § 23110, subd. (b) -- count 2), trespass and damage to or removal of highway signs (Pen. Code, § 602, subd. (f) -- count 3), and trespass (*id.* at subd. (m) -- count 4).

The People gave notice that minor was eligible for deferred entry of judgment (DEJ). Minor was referred for review of informal probation and DEJ. According to the probation officer's report, minor and his parents consented to probation. The probation officer recommended a grant of DEJ pursuant to section 790, with terms and conditions including completion of 40 hours of community service and/or a pro-social activity and payment of restitution to the California State Park, with the requirement for payment of restitution to be joint and several with the other offenders, their parents, and minor's parents. Probation recommended that the order of victim restitution remain in effect until paid in full pursuant to section 730.6 or 730.7 and not be discharged upon termination of probation or DEJ.

Minor admitted the charges for felony vandalism (count 1) and trespass (count 4). The juvenile court granted minor DEJ under section 790, adopted the terms and conditions recommended by the probation officer but deferred the determination of the restitution amount, and found that the maximum term of confinement would be three years and two months should judgment be entered.



The juvenile court conducted a subsequent hearing to determine whether minor had the ability to pay restitution. Minor said he was a freshman in high school, did not have a job, and did not have a bank account or trust fund in his name. He received Supplemental Security Income (SSI) and food stamps and his father received disability income. There was no other source of income for the family. It was undisputed that the family's income was below the federal poverty level and the People stipulated to balances in minor's bank account.

The juvenile court asked the parties to brief whether it could consider minor's SSI in determining minor's ability to pay restitution. The People argued the juvenile court could consider minor's SSI benefits in determining his ability to pay restitution, but could not compel minor to use his SSI to pay restitution. Minor argued SSI could not be used to pay restitution, therefore the fact that minor received SSI could not be considered in determining whether restitution should be ordered.

The juvenile court found that minor had ability to pay restitution. It set the monthly restitution payment at \$25 and total restitution at \$36,381, ordering that liability would be joint and several with minor's co-offenders. Minor reserved his right to a restitution hearing and the juvenile court said it could adjust the restitution amount after a hearing.

Two months later, the People filed a motion for entry of judgment. Probation indicated minor had completed all of the terms and conditions of probation except full payment of victim restitution. The juvenile court terminated probation and DEJ, dismissed the wardship petition, and converted the unfulfilled restitution order to a civil judgment. Counsel for minor said she had no objection to the conversion, with the understanding that minor would file an appeal regarding the issue of minor's ability to pay.

Minor filed a notice of appeal on July 31, 2014, challenging the juvenile court's January 29, 2014 finding of ability to pay restitution and July 9, 2014 order. Although

the notice of appeal references a July 10, 2014 conversion order, the record shows the juvenile court entered the conversion order on July 9, 2014. We deem the notice of appeal to refer to the July 9 order.

STATUTES GOVERNING DEJ AND RESTITUTION  
IN JUVENILE DELINQUENCY PROCEEDINGS

Before we address the contentions on appeal, it will be helpful to describe the statutes governing DEJ and restitution in juvenile delinquency proceedings. Where a minor is before the juvenile court for a determination whether he or she is a person described in section 602 because of the commission of a felony, the juvenile court may grant the minor DEJ if the minor is eligible for DEJ, the juvenile court finds that DEJ is suitable in that case, and the minor admits the allegations in the wardship petition. (§§ 790-791.) An order granting DEJ places a minor on probation without adjudging him or her a ward of the court and defers entry of judgment so the minor may complete probation and thereby avoid a judgment altogether. (*In re Mario C.* (2004) 124 Cal.App.4th 1303, 1308 (*Mario C.*)) When a minor is permitted to participate in DEJ, the juvenile court must impose certain requirements as conditions of probation. (§ 794.) The juvenile court may also require the minor to pay restitution. (*Ibid.*) As we explain in more detail in the Discussion, sections 730.6 and 742.16 govern restitution and apply to a minor who is granted DEJ and ordered to pay victim restitution. (§ 794; *G.C. v. Superior Court* (2010) 183 Cal.App.4th 371, 377 (*G.C.*)) Section 730.6 generally provides for restitution in juvenile delinquency cases. That statute requires a juvenile court to order a minor to pay victim restitution for economic losses caused by the minor. (§ 730.6, subds. (a)(1), (a)(2), (i), (l); see Cal. Const., art. I, § 28, subd. (b), par. (13) [a victim has a constitutional right to restitution].) And in cases involving vandalism, section 742.16 requires the juvenile court, with certain exceptions, to order as a condition of probation that the minor

wash, paint, repair, or replace the property defaced, damaged, or destroyed by the minor, or otherwise pay restitution, or both. (§ 742.16, subd. (a).)

If a minor who has been granted DEJ does not perform satisfactorily on probation, does not comply with the terms of probation, or is not benefiting from education, treatment, or rehabilitation, the juvenile court must lift the DEJ and schedule a dispositional hearing. (§ 793, subd. (a).) The juvenile court may impose the judgment previously deferred. (§§ 791, subd. (a)(4), 793, subd. (b).) If a minor has performed satisfactorily during the deferral period, at the end of that period the charge or charges in the wardship petition are dismissed, the arrest upon which the judgment was deferred is deemed never to have occurred, and any records in the possession of the juvenile court are sealed, except that the prosecuting attorney and the probation department shall have access to those records after they are sealed for the purpose of determining whether a minor is eligible for DEJ in the future. (§§ 791, subd. (a)(3), 793, subd. (c).) A minor's admission of the allegations in the petition is not deemed a finding that the petition was sustained for any purpose. (§ 791, subd. (c).)

## DISCUSSION

### I

We asked the parties to address whether this court has jurisdiction to consider minor's appeal. Minor contends this court has jurisdiction to review the juvenile court's order terminating probation, dismissing the wardship petition, and converting the restitution order to a civil judgment, because that order is a judgment within the meaning of section 800, subdivision (a) in that it renders a final determination of the rights of the parties. The People counter that a writ of mandate is the only mechanism by which minor can challenge the juvenile court's order.

A judgment or order of the juvenile court is not appealable unless expressly made so by statute. (*Mario C.*, *supra*, 124 Cal.App.4th at p. 1307; *People v. Superior*