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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re N.A., Person Coming
Under the Juvenile Court Law.

2d Juv. No. B277159
(Super. Ct. No. MJ22423)
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

N.A.,

Defendant and Appellant.

N.A. appeals a juvenile court order that he did not qualify for automatic sealing of his juvenile record (Welf. & Inst. Code, § 786, subd. (a))¹ after he tested positive for marijuana. The trial court asked: “[I]f we were to terminate jurisdiction

¹ All statutory references are to the Welfare & Institutions Code.

today what do you plan to do to remain drug free, because you can't casually use drugs?" Appellant responded: "I'm planning on going to the California Conservation Core for the year and just staying sober." The trial court dismissed the amended petition for loitering and said that it would seal appellant's record if appellant completed the California Conservation Core program and remained drug free. We affirm.

Procedural History

On June 23, 2014, an amended juvenile petition (§ 602) was filed for loitering at a shopping center. (Lancaster Mun. Code § 9.12.020, subd. (c).) Appellant's mother reported that appellant started using drugs after his father committed suicide from a drug-overdose. Appellant's drug of choice was spice but he also experimented with cocaine, heroin, methamphetamine, and marijuana.

Appellant admitted the loitering allegation and was adjudged a ward of the court. (§ 602.) The trial court ordered that the probation terms previously imposed remain in full force and effect and that appellant be placed at an open facility with drug counseling. Appellant was placed at Boys Republic group home on July 1, 2014, completed the program, and was released on home probation.

On May 21, 2015, appellant was found in violation of probation after his mother reported that he was socializing with homeless drug addicts, using drugs and alcohol at home, damaging property, not attending school, and being verbally abusive to family members. The trial court ordered appellant be placed in Glen Mills School, a residential drug program in Pennsylvania. Appellant was admitted to the program in July

2015, completed the program, and was placed on home probation in May 2016.

In July 2016, probation reported that appellant tested positive for marijuana and that appellant's overall behavior while supervised on probation was "marginally fair." "At this juncture, the minor does continue the need for a juvenile probation intervention. The minor has not successfully complied with all the conditions ordered by the court."

At the August 18, 2016 hearing on the final progress report, appellant indicated that he had been accepted into the California Conservation Core. The trial court found that "[i]t looks like [appellant] has done everything that has been required of him. You did do well at Glen Mills." "The only other thing was the testing positive for marijuana." It was a concern because appellant's drug use was the primary reason for the Glen Mills placement.

The trial court dismissed the amended petition because "[you] can't be on probation if you're going to participate in [the California Conservation Core] program." "Even though the court's willing to terminate jurisdiction at this time, it will unfortunately [be] with . . . a finding that [appellant is] not entitled to an automatic sealing." "I would love to see . . . you actually participate in this program but you complete it and you remain drug free. I would be more than happy to seal your record if you were to show me that. So you still have some work to do."

Sealing of Record

We review for abuse of discretion. (*In re Jeffrey T.* (2006) 140 Cal.App.4th 1015, 1018.) Former section 786, subdivision (a) provides in pertinent part: "If [a] minor

satisfactorily completes . . . a term of probation for any offense not listed in subdivision (b) of Section 707, the court shall order the petition dismissed The court shall order sealed all records pertaining to that dismissed petition in the custody of the juvenile court” (Stats. 2014, ch. 249, § 2, italics added.) Section 786, subdivision (c)(1) provides in pertinent part: “For purposes of this section, satisfactory completion of . . . 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.*” (§ 786, subd. (c)(1), italics added.)

Appellant argues that he made better than expected progress at Glen Mills and complied with most of his case plan. That may be true but appellant had a relapse and tested positive for marijuana after he completed the residential treatment program. The trial court found that appellant was still struggling with drug use and it was “keeping open the option” for sealing appellant’s record. “It’s not lost, you still have the ability to have your record sealed, you just know what you need to do.”

Appellant argues he is entitled to have his records sealed. (§ 786, subd. (a).) “For any petition dismissed by the court under section 786, the court must also order sealed all records in the custody of the court, law enforcement agencies, the probation department, and the Department of Justice pertaining to those dismissed petition(s)” (Cal. Rules of Court, rule 5.840(c); see *In re A.V.* (2017) 11 Cal.App.5th 697, 711 [if ward’s performance on probation is good enough to dismiss the petition,

it is good enough to seal the petition].) Section 786, however, was not intended to be a panacea for all sealing issues and gives the trial court the discretion to delay the sealing of the records. (*In re* Y.A. (2016) 246 Cal.App.4th 523, 527.)

Here there is no substantial evidence that appellant satisfactorily completed probation within the meaning of section 786. This is reflected in the August 18, 2016 minute order which states: “**THE COURT FINDS:** Minor has not successfully completed Probation. **Does not qualify for automatic sealing per 786WIC.**” Section 782 permits the juvenile court to dismiss the petition in the interests of justice and the welfare of the person subject to the petition. Rather than delay dismissal of the petition, which would render appellant ineligible to participate in the California Conservation Core program, the trial court dismissed the petition and found that appellant was not entitled to an automatic sealing pursuant to section 786. No abuse of discretion occurred. As noted by the trial court, appellant may petition to seal his records at a later date. (See § 781, subd. (a)(1)(A); Cal. Rules of Court, rule 5.830.)

Disposition

The order denying appellant’s request for automatic sealing of his juvenile record is affirmed.

NOT TO BE PUBLISHED.

YEGAN, J.

We concur:

GILBERT, P. J.

TANGEMAN, J.

Denise McLaughlin-Bennett, Judge

Superior Court County of Los Angeles

Holly Jackson, under appointment by the Court of
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