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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

AARON SHAWNTE HULLETT,

Defendant and Appellant.

2d Crim. No. B232661
(Super. Ct. No. 1258277)
(Santa Barbara County)

Aaron Shawnte Hullett appeals the revocation of his probation and sentence to 14 years in state prison. He contends the trial court abused its discretion in revoking probation and sentencing him to prison. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On March 17, 2008, an officer stopped appellant in the parking lot by a bar, and appellant gave him false identification. Upon arresting him for providing false identification, officers searched him and found baggies of rock cocaine.

In November 2008, appellant pleaded no contest to possession of cocaine base for sale (Health & Saf. Code, § 11351.5). He admitted allegations of two prior narcotic convictions (Health & Saf. Code, § 11370.2, subd. (a)) and three prior prison allegations (Pen. Code, § 667.5, subd. (b)).

On December 19, 2008, the trial court sentenced appellant to 14 years in state prison (a 5-year upper term for possession of cocaine base for sale; two 3-year prior narcotic conviction enhancements; and three one-year prior prison term enhancements). It then suspended execution of the sentence and placed him on formal probation. Among other conditions, the court ordered appellant to keep his probation officer advised of his residence address and refrain from using drugs or alcohol. The court expressly admonished him as follows: "[Y]ou have 14 years in state prison hanging over your head. My guess is that any new . . . violation, any significant transgression of terms and conditions in the probation grant will result in both probation and the district attorney requesting imposition of the 14 years in state prison. And I'm assuming that you want to avoid that at all costs." Appellant responded, "Yes, sir."

In May, June and July, appellant reported to his probation officer. On June 20, 2009, appellant's probation officer visited the address that appellant provided as his residence. There were minimal signs that he lived there. The probation officer returned in September 2009. When nobody answered the door, he left a business card. In October 2009, the probation officer again visited that residence. Appellant's aunt told the officer she had not seen appellant in a week, and that he was probably gone. On October 29, 2009, the probation officer filed a report stating that appellant had violated his probation by failing to advise the officer of his current residence, and recommending that the court revoke his probation. On November 2, 2009, the trial court revoked appellant's probation and issued an arrest warrant.

On April 23, 2010, an officer arrested appellant on the warrant at the Lompoc Spring Arts Festival. His breath smelled like alcohol, but he denied that he had been drinking. When interviewed by his probation officer, appellant refused to accept responsibility for his failure to report to the probation office, and claimed that he spent every night at his aunt's residence. He stated that he was attending Santa Barbara City College and working at a barber shop. The probation

officer filed a report recommending that the court revoke appellant's probation based on his failure to report to, and keep the probation officer advised of, his whereabouts, and because he had used alcohol. The probation officer acknowledged but disputed appellant's claim that he told appellant not to report to the probation office.

During probation revocation proceedings on June 1, 2010, the trial court decided to give appellant "one last chance," and reinstated his probation. It then advised him that "any violation whatsoever, failure to report, drinking alcohol, any violation and you're going to state prison; do you understand?" The court also stated that it was "going to indicate to the District Attorney as well as probation to quote me that this is your last opportunity on probation. You've got 14 years state prison suspended. You've got to maintain contact with your probation officer, and you can't be drinking, and you can't be using any controlled substances. Understood?" Appellant replied, "Yes, your Honor." Thereafter, the court reinstated probation under the same terms and conditions originally ordered, along with the condition that he serve 270 days in jail.

On October 16, 2010, an officer cited appellant in Lompoc because he failed to stop at a stop sign. He smelled like alcohol, and he told the officer he did not have a driver's license. Appellant later pled no contest to driving with a suspended license, and admitted that he violated probation by committing that offense and by drinking. During a March 3, 2011, revocation hearing, appellant requested that the trial court reinstate his probation on the condition that he enter a treatment program. He argued that he was forced to drive the car to take his daughter for emergency medical treatment. The trial court declined his request, imposed the previously suspended 14-year prison sentence, and awarded him presentence custody credit for 665 days (333 days of actual custody, plus 332 days of conduct credit).

After finding that a defendant has violated probation, a trial court may either reinstate probation on the same or modified terms, or terminate

probation and order the defendant committed to prison "if the interests of justice so require." (Pen. Code, § 1203.2, subd. (b); *People v. Medina* (2001) 89 Cal.App.4th 318, 321; *People v. Harris* (1990) 226 Cal.App.3d 141, 147.) In considering whether to reinstate or revoke probation, the court's inquiry is directed to the probationer's performance on probation and whether the defendant can conform his or her conduct to the law in the future. (*People v. Beaudrie* (1983) 147 Cal.App.3d 686, 691.) The trial court is vested with broad discretion in determining whether to reinstate or revoke probation, and its order is reviewed for abuse of discretion. (*People v. Weaver* (2007) 149 Cal.App.4th 1301, 1311.) We will not interfere with the trial court's decision when the court has considered all facts bearing on the offense and the defendant. (*People v. Downey* (2000) 82 Cal.App.4th 899, 909-910; see also *People v. Rodriguez* (1990) 51 Cal.3d 437, 443.)

In essence, appellant argues that because he was attending school, and performing so well that the probation department had recently approved the transfer of his case to another county, the trial court abused its discretion by revoking his probation. There was no abuse here. The record shows that the trial court acted reasonably in revoking appellant's probation and imposing his prison sentence after his repeated violations of probation. In placing him on probation in 2008, the court explicitly advised appellant that the probation department would recommend the revocation of probation and imposition of his 14-year sentence if he violated probation in any significant way. In 2010, following appellant's lengthy failure to maintain contact with the probation department, and after his arrest at a fair in April, while smelling of alcohol, the probation department recommended that the court impose the 14-year sentence. In June 2010, the trial court gave appellant "one last chance," with a clear admonition that he could not be drinking alcohol, using drugs, and that he must maintain contact with his probation officer, to avoid the imposition of his 14-year sentence. In October

2010, appellant violated his probation by drinking alcohol and driving with a suspended license.

DISPOSITION

The judgment is affirmed.

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PERREN, J.

We concur:

GILBERT, P.J.

YEGAN, J.

Jean Dandona, Judge

Superior Court County of Santa Barbara

Richard B. Lennon, under appointment by the Court of Appeal, for
Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief
Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General,
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