

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE ANGEL BARRADAS-  
BENITEZ,

Defendant and Appellant.

2d Crim. No. B276439  
(Super. Ct. No. 1493863)  
(Santa Barbara County)

Jose Angel Barradas-Benitez (appellant) appeals an order imposing a probation condition following his guilty plea to receiving stolen property. (Pen. Code, § 496, subd. (a).)<sup>1</sup> We conclude the trial court did not err by imposing a condition that prohibits his attendance at court proceedings where he knows a member of a criminal street gang is present, unless he is a party, a subpoenaed witness, or has prior permission from his probation officer. We affirm.

---

<sup>1</sup> All statutory references are to the Penal Code.

## FACTS

On December 3, 2015, police went to a Game Stop store and viewed a “surveillance” video of appellant entering the store with stolen items, including an “Xbox.”

On December 9, 2015, police interviewed Connor Sanford and told him that “he was suspected to be involved in the repair of ” a stolen automobile. Sanford told police that appellant asked him to repair that vehicle. Sanford said “he worked on the vehicle until he became suspicious it was stolen after [appellant] was unable to provide the locknut key and left it on the street, where it was later towed.”

On May 20, 2016, appellant pled no contest to receiving stolen property (§ 496, subd. (a)), a felony.

At the sentencing hearing, the trial court said, “[T]he Court will order pronouncement of judgment suspended, probation granted for three years. Conditions include restitution.” The court noted that appellant had a “gang association and/or membership history.”

The trial court imposed probation condition No. 34. It provides, “You shall not be present at any court proceeding where you know or the probation officer informs you that a member of a criminal street gang is present or that the proceeding concerns a member of a criminal street gang unless you are a party, you are a defendant in a criminal action, you are subpoenaed as a witness, or you have the prior permission of your probation officer.”

Defense counsel objected to this condition. He said it prevents defendant from being in a public place where he has a constitutional right to be.” The court found condition No. 34 “is appropriate.”

## DISCUSSION

### *The Probation Condition*

Appellant contends probation condition No. 34--which prohibits him from attending court proceedings where he knows gang members are present--is invalid, not reasonably related to future criminality, and violates his First Amendment rights. We disagree.

Here appellant had a history that showed his connection with a gang. He had been “associated with the Eastside Familia criminal street gang.” He had “gang-related tattoos.” He stated that “his street moniker” was “Pancho.” The trial court highlighted his “gang association and/or membership history” as a reason to impose condition No. 34. It also imposed another gang-related condition (No. 33), which appellant does not challenge. It prohibited him from associating with any gang members or displaying insignias, tattoos or materials “which is evidence of affiliation with or membership in a gang.”

“Trial courts have broad discretion to set conditions of probation in order to ‘foster rehabilitation and to protect public safety . . . .’” (*People v. Lopez* (1998) 66 Cal.App.4th 615, 624.)

“‘[A] condition of probation which requires or forbids conduct which is not itself criminal is valid if that conduct is reasonably related to the crime of which the defendant was convicted or to future criminality.’” (*Ibid.*)

“Because ‘[a]ssociation with gang members is the first step to involvement in gang activity,’ such conditions have been found to be ‘reasonably designed to prevent future criminal behavior.’” (*People v. Lopez, supra*, 66 Cal.App.4th at p. 624.)

Here the condition imposes restrictions on appellant’s presence at court proceedings. “A general ban on being present

at any courthouse or court proceeding, except when scheduled for a hearing or subpoenaed as a witness, may impinge upon a host of constitutional rights.” (*People v. Leon* (2010) 181 Cal.App.4th 943, 952.) “There can be a variety of legitimate reasons for being at a court proceeding . . . .” (*Id.* at p. 953.) “[D]efendant may need to file a document regarding a family matter or he may, as a member of the public, wish to observe a newsworthy trial not involving a gang member or himself.” (*Ibid.*) But trial courts may impose conditions restricting attendance at court proceedings involving gangs or gang members where they “appropriately tailor the conditions” to the defendant’s “rehabilitation” which prevents future criminal behavior. (*Id.* at p. 950, fn. 1.)

In *People v. Leon, supra*, 181 Cal.App.4th at page 954, the court ruled the following condition was valid and satisfied constitutional standards: “You shall not be present at any court proceeding where you know or the probation officer informs you that a member of a criminal street gang is present or that the proceeding concerns a member of a criminal street gang unless you are a party, you are a defendant in a criminal action, you are subpoenaed as a witness, or you have the prior permission of your probation officer.” That is the same condition that the trial court imposed in this case.

The probation report indicates that the defendant “has been running afoul of the law for the last eight years. He has faced a variety of adjudications and convictions ranging from drugs, vandalism [and] *gang associations* . . . .” (*Italics added.*) It said, “He has significant obstacles to overcome, including *gang attachments* . . . .” (*Italics added.*) There was no error.

DISPOSITION

The order imposing probation condition No. 34 is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

PERREN, J.

TANGEMAN, J.

Clifford R. Anderson III, Judge  
Superior Court County of Santa Barbara

---

Kenneth I. Clayman, Public Defender, Sheerin  
Karimian, Deputy Public Defender for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A.  
Engler, Chief Assistant Attorney General, Lance E. Winters,  
Senior Assistant Attorney General, Susan Sullivan Pithey,  
Supervising Deputy Attorney General, Heather B. Arambarri,  
Deputy Attorney General, for Plaintiff and Respondent.