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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re MARIO L., a Person Coming Under
the Juvenile Court Law.

B237059

(Los Angeles County
Super. Ct. No. JJ17367)

THE PEOPLE,

Plaintiff and Respondent,

v.

MARIO L.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County. Donna Groman, Judge. Modified and affirmed.

Ronald L. Brown, Public Defender, Albert J. Menaster, Reginald Fleming-Peters, and Megan N. Gallow, Deputy Public Defenders for Minor and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Paul M. Roadarmel, Jr. and Robert C. Schneider, Deputy Attorneys General for Plaintiff and Respondent.

Appellant Mario L. (minor) appeals from the denial of a petition to vacate an order for restitution and abstract of judgment (Judicial Counsel form No. CR-110/JV-790) on the ground that it was issued after he turned 21 years old, when the juvenile court's jurisdiction terminated by operation of law. In the alternative, minor seeks correction of the amount of the judgment to reflect the original restitution order of \$12,988. We conclude that the juvenile court acted within its authority in issuing the order and abstract of judgment, but did not correctly state the original restitution order. We thus order the juvenile court to issue a new order and abstract of judgment showing the correct amount, and we affirm the order denying the petition.

BACKGROUND

On November 17, 2009, the juvenile court declared minor a ward of the court pursuant to Welfare and Institutions Code section 602.¹ The Probation Department reported that minor had etched and painted graffiti on numerous MTA buses, causing extensive damage estimated at \$31,800. Among other conditions of probation, the probation officer recommended an order for restitution. After minor entered into a plea agreement in which he admitted three counts of felony vandalism in violation of Penal Code section 594, subdivision (a), eight remaining counts of vandalism were dismissed. The juvenile court placed minor at home on probation and ordered him to pay victim restitution in the amount of \$12,988. Minor did not appeal the disposition.²

Several progress hearings were held over the following year and another hearing was scheduled to take place in July 2011, shortly before minor turned 21. The Probation Department reported that although restitution payments had been made there remained a balance owing. The juvenile court terminated jurisdiction but stayed the order and continued the matter pending receipt of a proposed abstract of judgment. After several

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

² In juvenile dependency proceedings the dispositional order is the judgment. (*In re Mario C.* (2004) 124 Cal.App.4th 1303, 1307-1308.)

more continuances the abstract was submitted to the court for issuance on October 4, 2011.

The abstract of judgment submitted to the court was the standard Judicial Council form No. CR-110/JV-790, entitled “Order for Restitution and Abstract of Judgment” (Order/Abstract). The juvenile court signed the first page of the form, on which a checked box under paragraph 3(a) stated (with added language): “The court orders defendant/child to pay restitution to the victim . . . MTA in the amount of: \$13,357.76.” The second page of the form contained the abstract of judgment and was signed by the deputy clerk. Upon signing the form, the juvenile court terminated probation and its jurisdiction.

On October 21, 2011, minor filed a petition pursuant to section 778 to modify the court’s order.³ The body of the petition stated: “Minor does hereby move to quash the [Order/Abstract], terminate probation and juvenile court jurisdiction, or, in the alternative, move for an alternative disposition based on a change in circumstance and new evidence.”⁴ As relevant here, the petition alleged that the juvenile court’s jurisdiction expired by operation of law on minor’s 21st birthday in June 2011, and that the juvenile court signed the Order for Restitution and Abstract of Judgment after that date. The petition concludes that the Order/Abstract was unlawful due to lack of jurisdiction and should therefore be vacated.

³ Section 778 permits the minor or other interested person to petition the juvenile court to “change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified . . . and shall set forth in concise language any change of circumstance or new evidence which are alleged to require such change of order or termination of jurisdiction.”

⁴ Despite language to the contrary in the petition, minor denies that he challenged the November 17, 2009 disposition order or the amount of \$12,988. Minor acknowledges that the petition incorrectly stated that restitution was to be determined by the Probation Department sometime later than November 17, 2009, the date of entry of the disposition. Further, minor concedes that the termination of juvenile jurisdiction did not terminate his obligation to pay restitution.

The petition was argued and denied October 28, 2011. Minor filed a timely notice of appeal from the order denying his petition.

DISCUSSION

Minor contends that the juvenile court lacked jurisdiction to issue the Order/Abstract after he turned 21 years old. Subject to exceptions inapplicable here, the juvenile court loses jurisdiction over a ward or dependent child who has attained the age of 21 years. (§ 607, subd. (a).) Minor's argument that the Order/Abstract was beyond the court's jurisdiction is apparently based upon an assumption that it was a new or "subsequent" order for restitution, not simply a summary of the restitution order contained in the judgment entered November 17, 2009. If so, he is mistaken. We agree with respondent that the order in the Order/Abstract was nothing more than a "memorialization" of the original restitution order which minor did not challenge. The Order/Abstract would more clearly reflect the nature of the document had the juvenile court checked the appropriate box or boxes under paragraph "No. 2" or number two; however, it is apparent from the record that no new or subsequent order was created.

As respondent notes, the juvenile court had a constitutional and statutory duty to order restitution be made to the victim by the minor. (Cal. Const., art. I, § 28, subd. (b); § 730.6; *In re Brittany L.* (2002) 99 Cal.App.4th 1381, 1386-1387.) "In keeping with the 'unequivocal intention' that victim restitution be made, statutory provisions implementing the constitutional directive have been broadly and liberally construed. [Citations.]" (*People v. Lyon* (1996) 49 Cal.App.4th 1521, 1525; see also *People v. Stanley* (2012) 54 Cal.4th 734, 737.) The victim of a juvenile's crime is entitled to enforce a restitution order as provided in Penal Code section 1214 and in the same manner as a civil judgment. (Welf. & Inst. Code, § 730.6, subs. (i), (r).) Civil money judgments are enforced under the procedures set forth in Code of Civil Procedure section 695.010 et seq., and these provisions apply to a juvenile court restitution order. (*In re Michael S.* (2007) 147 Cal.App.4th 1443, 1456 (*Michael S.*).)

"'Money judgment' means that part of a judgment that requires the payment of money." (Code Civ. Proc., § 680.270.) It follows that the victim must have a judgment

or order before it can be enforced. To that end, Penal Code section 1214 provides, with specified conditions, that the restitution order is deemed to be a money judgment, and the victim is entitled to a certified copy of it for purposes of enforcement. (Pen. Code, § 1214, subd. (b).) Penal Code section 1214 is applicable to juvenile restitution orders. (Welf. & Inst. Code, § 730.6, subd. (r).) The victim was thus entitled to a certified copy of an enforceable order.⁵

Minor contends that the restitution condition of the dispositional order cannot be deemed a money judgment under Penal Code section 1214 because the minute order of November 17, 2009, does not refer to a hearing, findings or a stipulation to the amount of restitution. Penal Code section 1214, subdivision (b), provides that a restitution order “is deemed a money judgment if the defendant was informed of his or her right to have a judicial determination of the amount and was provided with a hearing, waived a hearing, or stipulated to the amount of the restitution ordered”

Though there is no reporter’s transcript for November 17, 2009, respondent represents that minor agreed to the amount of victim restitution as part of the plea bargain. Further, minor has not provided either a settled statement or written plea agreement in the clerk’s transcript. Applying normal principles of appellate review we presume the juvenile court’s orders are correct as to matters on which the record is silent, and that “that official duty has been regularly performed.” (Evid. Code, § 664; *In re Julian R.* (2009) 47 Cal.4th 487, 498-499; *Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Thus we presume that the juvenile court properly entered a restitution order, either as stipulated under the plea agreement or after a hearing with appropriate findings, and that the Order/Abstract may be deemed a money judgment under Penal Code section 1214, subdivision (b).

⁵ Here, the order for victim restitution was a condition of probation in the dispositional order. The Order/Abstract is a document containing the information necessary for enforcement while preserving the confidentiality of the rest of the juvenile case file. (See § 827.)

Minor contends that even if the Order/Abstract was authorized by Penal Code section 1214, the juvenile court was not authorized to issue it on its own motion, as the statute provides that the court must provide a certified copy of the order “[u]pon the victim’s request” We find minor’s construction strained and illogical. Requiring the court to act upon the victim’s request does not imply that the court is powerless to act without a request. In any event, minor did not make this contention below and presented no evidence to suggest that the Order/Abstract was not requested by the victim. In fact, the dispositional order named “MTA” as the victim entitled to restitution, and the Order/Abstract identifies “MTA-Hertz Claim Mgmnt” as the judgment creditor and requesting party.

As minor has conceded, the obligation to pay restitution survives termination of juvenile jurisdiction. (§ 730.6, subd. (l); see *Michael S.*, *supra*, 147 Cal.App.4th at pp. 1456-1457.) An abstract of judgment must be issued by the same court in which the judgment was entered. (See Code Civ. Proc., § 674, subd. (a).) A civil judgment may be enforced for 10 years and may be renewed anytime in those 10 years. (Code Civ. Proc., §§ 683.020, 683.010.) The juvenile court thus had the authority to renew restitution orders and the obligation to issue abstracts of judgment for at least 10 years. To engraft a requirement that the judgment debtor be no older than 21 years at the time of issuance would negate the express intent of the Legislature to permit victims to enforce juvenile restitution orders in the same manner as civil judgments. (See § 730.6, subds. (i), (r).) It follows that the court did not lose jurisdiction over the restitution order or the abstract of judgment.

In sum, Judicial Counsel form No. CR-110/JV-790 does not create a new or subsequent judgment but is merely a restatement of the original order. The juvenile court’s jurisdiction to issue the order and abstract of judgment did not terminate on minor’s 21st birthday, as restitution orders may be enforced for 10 years and may be renewed within that time. (Code Civ. Proc., §§ 683.020, 683.010.)

Minor contends that even if correctly entered, the Order/Abstract incorrectly states that \$13,357.76, rather than \$12,988, was the amount of the restitution order originally

entered. The record does not contain an explanation of this discrepancy.⁶ Minor seeks a correction of the Order/Abstract to conform to the original restitution order. Minor's petition to modify the juvenile court's order made no mention of this issue, but minor relies on *People v. Mitchell* (2001) 26 Cal.4th 181, 185 [clerical errors may be corrected at any time].

Respondent has no objection to a modification, but claims that the difference between \$12,988 and \$13,357.76 correctly reflects an added service charge as authorized by section 276, subdivision (c). However, respondent acknowledges that the minute order of November 17, 2009, stated that the service charge was *included* in the \$12,988. Language *including* a service charge in the overall amount cannot logically be construed as *adding* a service charge to the overall amount. Moreover, respondent impliedly concedes that there has been no hearing to determine the propriety of adding any amount to the original \$12,988. In any event, we order the juvenile court to issue a corrected Order/Abstract.

⁶ The probation reports prepared in March 2010, June 2010, and December 2010, reflected an original restitution order of \$12,988. The December 2010 probation report showed an outstanding balance of \$12,713, after several payments had been made, whereas in June 2011, the probation officer reported without explanation that the balance was \$13,357.76.

DISPOSITION

The order denying the petition to modify court order is affirmed. The juvenile court is ordered to issue the victim a corrected Order for Restitution and Abstract of Judgment (Judicial Counsel form No. CR-110/JV-790), showing the amount of the restitution order as originally entered, the sum of \$12,988.

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_____, J.
CHAVEZ

We concur:

_____, P. J.
BOREN

_____, J.
DOI TODD