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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

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

B268638
(Los Angeles County
Super. Ct. No. KJ39436)

THE PEOPLE,

Plaintiff and Respondent,

v.

P.P.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County.

Geanene M. Yriarte, Judge. Affirmed as modified.

Torres & Torres, Steven A. Torres, under appointment by the Court of Appeal, for
Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney
General, Lance E. Winters, Senior Assistant Attorney General, Paul M. Roadarmel, Jr.,
Supervising Deputy Attorney General, and Tita Nguyen, Deputy Attorney General, for
Plaintiff and Respondent.

* * * * *

Defendant and appellant P.P. (juvenile) is a juvenile who admitted that he committed the crime of attempted willful, deliberate and premeditated murder (Pen. Code, §§ 187, subd. (a) & 664),¹ along with other enhancements, and was sentenced to life plus six years in the Division of Juvenile Facilities. On appeal, he attacks the duration and the terms of the protective order issued to protect the victim. We agree with the juvenile that the court erred in imposing a 10-year protective order, but find no error in the order's terms. We accordingly affirm the order, but modify the term to three years.

FACTS AND PROCEDURAL BACKGROUND

In 2015, the juvenile waited for his 77-year-old stepfather to return to the home where he, his mother, his brother and his stepfather all lived. While he waited, he ransacked the home to make it look like a burglary had occurred. When the stepfather returned, the juvenile struck his stepfather two or three times in the back of the head with an aluminum baseball bat. Then juvenile then left his stepfather in a pool of his own blood while he disposed of the bat and the home's surveillance tapes. Minutes later, the juvenile returned home to call 911 and falsely reported that he just discovered his stepfather injured and a that man with a wooden bat had left the scene on a motorcycle.

Because the juvenile was 17 years old at the time of the crime, the People filed a petition in juvenile court charging the juvenile with (1) attempted murder (§§ 187, subd. (a) & 664); (2) first degree residential robbery (§ 211); (3) assault with a deadly weapon (§ 245, subd. (a)(1)); (4) elder abuse involving the infliction of injury (§ 368, subd. (b)(1)); and (5) first degree burglary with a person present (§ 459). As all five counts, the People further alleged that the juvenile personally inflicted great bodily injury on a person 70 years or older. (§ 12022.7, subd. (c).) As to all but the third count, the People further alleged that the juvenile had personally used a deadly or dangerous weapon. (§ 12022, subd. (b)(1).)

Subsequently, the People filed an amended petition charging the juvenile with the same five crimes, but further alleging that the attempted murder was willful, deliberate

¹ All further statutory references are to the Penal Code unless otherwise indicated.

and premeditated and specifying that the dangerous or deadly weapon was a baseball bat. The juvenile admitted the attempted murder charge, as well as the allegations that (1) the attempted murder was willful, deliberate, and premeditated, (2) that he personally inflicted great bodily injury on a person 70 years or older, and (3) that he personally used a deadly or dangerous weapon.

A week later, the juvenile court sentenced the juvenile to the Division of Juvenile Facilities for a term of life plus six years, comprised of a life term for the willful, deliberate and premeditated attempted murder charge, plus five years for personally inflicting great bodily injury on someone 70 or over, plus one year for personal use of a deadly or dangerous weapon.

Using the Judicial Council's standard form, the juvenile court also signed a restraining order enjoining the juvenile from (1) "[m]olest[ing], attack[ing], strik[ing], stalk[ing], threaten[ing], sexually assault[ing], batter[ing], harass[ing], [or] destroy[ing] the personal property of" his stepfather; (2) "contact[ing] [the stepfather], either directly or indirectly in any way, including but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means"; and (3) coming within 100 yards of his stepfather as well as his stepfather's home, job, or vehicle. The order also provided that the juvenile "must NOT take any action to get the address or location of [his stepfather] . . . or the addresses or locations of the family members, caregivers, or guardians of the [stepfather]" because the court did not find "good cause not to make this order." The duration of the protective order was 10 years.

The juvenile filed this timely appeal.

DISCUSSION

The juvenile argues that the protective order must be modified because (1) its 10-year duration exceeds the three-year maximum prescribed in Welfare and Institutions Code section 213.5, subdivision (d)(1), and (2) its prohibition that the juvenile not take any action to obtain his mother's or brother's address or location is impermissibly overbroad because they are not at risk by virtue of his attack on his stepfather.

I. Duration of Protective Order

At the time it declares a juvenile to be a ward of the court, a juvenile court has the discretion to issue a protective order enjoining the juvenile from engaging in molesting or harassing behavior, excluding the juvenile from his or her home, and/or precluding any contact between the juvenile and the victim(s) of his crime(s). (Welf. & Inst. Code, § 213.5, subds. (b) & (d).) The protective order “shall remain in effect, in the discretion of the court, no more than three years, unless,” among other instances, “extended by mutual consent of all parties to the restraining order.” (*Id.*, subd. (d)(1).) The juvenile court issued a 10-year restraining order in this case. Although the prosecutor represented to the court that the juvenile’s counsel “was fine with th[e 10-year duration] based on the circumstances of this case,” the People do not argue on appeal that the parties mutually consented to extend the duration of the order. Absent any exception, and as the People conceded on appeal, a 10-year order exceeds the three-year maximum and must be modified to expire on September 30, 2018.

II. Term Prohibiting Juvenile From Taking Actions to Locate His Mother or Brother

When a court issues a protective order pursuant to Welfare and Institutions Code section 213.5 at the time it declares a juvenile a ward of the court, our Legislature has further prescribed that “[t]he court shall . . . prohibit[] [the juvenile] from taking any action to obtain the address or location of a protected party *or a protected party’s family members*, caretakers, or guardian, unless there is good cause not to make that order.” (Welf. & Inst. Code, § 213.7, subd. (a), italics added.) The juvenile court’s order declares that it did not find “good cause” to dispense with this term, and we review this finding either for substantial evidence or for an abuse of discretion. (See *In re C.Q.* (2013) 219 Cal.App.4th 355, 364; *In re N.L.* (2015) 236 Cal.App.4th 1460, 1465-1466.)

Applying either of these deferential standards of review, the juvenile court did not err in finding no good cause to excuse the standard term prohibiting a juvenile from obtaining the address or location of the victim’s “family members.” Ostensibly, that term is a prophylactic measure designed to ensure that the juvenile does not locate the victim

by locating the family members with whom the victim lives. In this case, the juvenile's stepfather lived with the juvenile's mother and brother at the time of the attempted murder. There is conflicting evidence as to whether the juvenile's mother and brother were still living with the victim at the time of the protective order was issued: The stepfather indicated in a statement made on August 20, 2015, that he had filed for divorce from the juvenile's mother but that she was still living with him, but the juvenile court's September 30, 2015 disposition order listed the mother's "[l]egal residence" as an address other than the address where the assault took place. However, there is no evidence as to whether mother was physically living at the "[l]egal residence." On these facts, and given that we may not reweigh the evidence before the juvenile court when reviewing for substantial evidence (*People v. Prunty* (2015) 62 Cal.4th 59, 89), the court had sufficient evidence before it to reasonably conclude that the juvenile's mother and brother were still living with his stepfather, such that there was no "good cause" for dispensing with the term that the juvenile be prohibited from finding the addresses of his stepfather and the stepfather's family members.

The juvenile raises two arguments in response. First, he points to several cases requiring any probation conditions imposed by a juvenile court be appropriately tailored to the prevention of future harm. (*In re E.O.* (2010) 188 Cal.App.4th 1149, 1153.) However, as the juvenile elsewhere (and inconsistently) recognizes, cases involving a juvenile court's authority to oversee a juvenile during probation are irrelevant where, as here, the juvenile is not placed on probation and is instead placed in custody. (E.g., *In re Ronny P.* (2004) 117 Cal.App.4th 1204, 1208.)

Second, the juvenile argues that he has a First Amendment right to associate with his family members, and that an order precluding him from taking actions to locate the addresses of his family members infringes upon that interest. The same argument could be made in every domestic violence case, yet protective orders are regularly issued and upheld notwithstanding their potential interference with familial association. We decline the juvenile's invitation to interpret the First Amendment in a novel way that would eviscerate the power of courts to issue domestic violence protective orders.

DISPOSITION

We affirm the judgment, but modify the juvenile court's protective order to expire on September 30, 2018.

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_____, J.
HOFFSTADT

We concur:

_____, P. J.
BOREN

_____, J.
CHAVEZ