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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

NICOLE L. PARSON,

Defendant and Appellant.

B254484

(Los Angeles County
Super. Ct. No. MA059172)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Kathleen Blanchard, Judge. Affirmed.

Gail Ganaja, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance by Plaintiff and Respondent.

Pursuant to a negotiated plea agreement, defendant Nicole L. Parson entered a no contest plea to one count of second degree burglary in July 2013. The court suspended imposition of sentence, and placed defendant on probation for three years. The terms of her probation included the requirement of obeying all laws.

Several days later, sheriff's deputies responded to a trespassing call at the home of defendant's mother, Annie Guadalupe (also known as Ann Parson), on Boyden Avenue in Lancaster. After a determination was made that defendant was not authorized to enter the home, which had been boarded up, defendant was arrested for unlawfully entering the home. Her probation was summarily revoked, and she was remanded to custody pending a probation revocation hearing.¹

At the revocation hearing, Los Angeles County Sheriff's Deputy Daniel Mahoney testified that he had responded to a trespassing call at a house on Boyden Avenue on July 10, 2013. The house was boarded up and had a broken window. Defendant, who was inside the house, spoke to him through the broken window. She claimed to have been living there for several years, but was unable to provide written proof of residency. Mahoney returned to the station and found a "letter of agency" concerning the house. The letter, which was filed by defendant's sister, Prima Parson, as conservator of their mother's estate, authorized the pursuit of criminal charges against anyone who entered the property illegally. After verifying that Parson was the conservator of her mother's estate, which included the house on Boyden Avenue, and that defendant did not have permission to enter the property, Mahoney returned to that location and arrested defendant.²

¹ Defendant sought to represent herself at the probation revocation hearing, but her "unpredictable behavior" raised doubts regarding her mental capacity. The trial court ordered a psychiatric evaluation. After receiving the psychiatrist's report, the court found defendant competent to represent herself.

² Parson testified that her mother had moved to an assisted living facility after suffering a stroke, and that she had been appointed conservator of her mother's estate in 2008. She explained that her mother's neighbor, Gloria Robinson, has a key to the house, but defendant does not have a key and does not have permission to enter the house.

The prosecution argued that defendant's entry into the Boyden Avenue home was unlawful and, thus, a violation of the terms of her probation. Defendant argued that the evidence failed to show that she was on the property illegally, or that the property belonged to her mother. Defendant stated, "The only reason that I was in the house is – is to go into my family home, for the shelter and warmth of an electric blanket from inside the covers of my bed, powered by the utility account that's in my name. And the bill was so expensive . . . \$1,076.62 because the price of Southern California Edison have been increased and the whole amount, Your Honor, it became due while I was incarcerated and I was unable to keep my payment arrangements, which have been going – ongoing payment arrangements since April 2011."

At the conclusion of the probation revocation hearing, the trial court found that defendant's entry into the Boyden Avenue house was unlawful, and constituted a violation of the requirement that she obey all laws. In imposing a 3-year prison term on the second degree burglary conviction, the court explained the high term was appropriate in light of defendant's criminal history, which included two prior revocations of probation in which she was sent to state prison for 12 months in one case, and 2 years in another. This appeal followed.

In the opening brief, defendant's appointed counsel requested this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441. On July 18, 2014, we directed counsel to send the record on appeal and a copy of the opening brief to defendant. Also on that date, we notified defendant that she had 30 days within which to personally submit any contentions or issues that she wished us to consider. After receiving two extensions of time in which to file a supplemental brief, defendant did not file any additional materials. The case was deemed to be fully briefed.

Robinson testified that about eight or nine months earlier, she had found a backpack by the garage door of the house. Robinson opened the backpack and found that it contained defendant's personal items.

“Section 1203.2, subdivision (a) authorizes a court to revoke probation if the interests of justice so require and the court, in its judgment, has reason to believe that the person has violated any of the conditions of his or her probation. [Citation.] “When the evidence shows that a defendant has not complied with the terms of probation, the order of probation may be revoked at any time during the probationary period. [Citations.]” [Citation.]’ . . . The standard of proof in a probation revocation proceeding is proof by a preponderance of the evidence. [Citations.] ‘Probation revocation proceedings are not a part of a criminal prosecution, and the trial court has broad discretion in determining whether the probationer has violated probation.’ [Citation.]” (*People v. Urke* (2011) 197 Cal.App.4th 766, 772 (*Urke*).)

“We review a probation revocation decision pursuant to the substantial evidence standard of review [citation], and great deference is accorded the trial court’s decision, bearing in mind that ‘[p]robation is not a matter of right but an act of clemency, the granting and revocation of which are entirely within the sound discretion of the trial court. [Citations.]’ [Citation.] [¶] ‘The discretion of the court to revoke probation is analogous to its power to grant the probation, and the court’s discretion will not be disturbed in the absence of a showing of abusive or arbitrary action. [Citations.]’ [Citation.] ‘Many times circumstances not warranting a conviction may fully justify a court in revoking probation granted on a prior offense. [Citation.]’ [Citation.] “[O]nly in a very extreme case should an appellate court interfere with the discretion of the trial court in the matter of denying or revoking probation. . . .” [Citation.] And the burden of demonstrating an abuse of the trial court’s discretion rests squarely on the defendant. [Citation.]” (*Urke, supra*, 197 Cal.App.4th at p. 773.)

Upon examining the record, we conclude the finding of unauthorized entry into the home on Boyden Avenue is supported by substantial evidence. As a probationer, defendant was required to obey all laws, which she failed to do when she entered the boarded up home without the consent of her mother’s conservator. The record does not demonstrate an abuse of discretion. We are satisfied that defense counsel has fully

complied with her responsibilities and that no arguable appellate issue exists. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 110.)

DISPOSITION

The judgment is affirmed.

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EPSTEIN, P.J.

We concur:

MANELLA, J.

COLLINS, J.