Filed 11/21/12 P. v. Parson CA2/2

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE, Plaintiff and Respondent, v. NICOLE LENEA PARSON, Defendant and Appellant.	B232038 (Los Angeles County Super. Ct. Nos. BA360886, MA045416)

APPEAL from a judgment of the Superior Court of Los Angeles County. Charles A. Chung, Judge. Affirmed.

Karyn H. Bucur, 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, Assistant Attorney General, Linda C. Johnson and Gary A. Lieberman, Deputy Attorneys General, for Plaintiff and Respondent.

_____

Nicole Lenea Parson appeals from the judgment entered upon revocation of her probation granted upon her conviction of petty theft with a prior (Pen. Code, § 666)[1] by plea of no contest. The trial court sentenced appellant to the midterm of two years in state prison, satisfied by time already served. Appellant contends that (1) the probation revocation proceedings violated due process, and (2) the trial court abused its discretion in allowing in evidence at the probation violation hearing the hearsay statements of a probation officer and a social worker.

We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On April 17, 2009, appellant pled no contest to one count of petty theft with priors in case No. MA045416 (petty theft case), in the Antelope Valley branch of the Los Angeles Superior Court (north district court). The trial court placed appellant on three years formal probation, imposing as probation conditions, among others, that she serve 180 days in jail and obey all laws, court orders and rules and regulations of the probation department.

On August 21, 2009, appellant appeared on the petty theft case in the north district court before Judge Charles Chung, as the prosecution was requesting revocation of her probation based on her arrest two days earlier. Probation was summarily revoked, appellant remanded into custody and a supplemental probation report ordered.

Several days later, the probation officer in the petty theft case filed a progress report stating that appellant was not in compliance with her probation by reason of her new arrest for abduction of her child, then in the custody of the Department of Children and Family Services (DCFS), and battery on staff and security personnel who attempted to intercede. Thereafter, a new case No. BA360886 was filed in the downtown Los Angeles Branch of the Los Angeles Superior Court (central district court) relating to the abduction (the abduction case).

---

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

On December 22, 2009, appellant pled no contest to child stealing (§ 278) in the abduction case in the central district court before Judge Craig Richman. Pursuant to a plea agreement, Judge Richman placed her on three years formal probation, on the conditions, among others, that she enroll in a 52-week parenting class, participate in one year of psychiatric counseling, take all prescribed medications and serve an additional 188 days in county jail. Appellant then waived her right to a revocation hearing in the petty theft case and admitted violating probation. Judge Richman revoked probation in that case, then reinstated probation on the same terms and conditions as in the abduction case.

The probation officer in the abduction case later filed a report, dated March 18, 2010, alleging a violation of probation in that case based upon, among other things, appellant's failure to enroll in a 52-week parenting course, and setting a probation revocation hearing for April 5, 2010. The report stated that appellant failed to enroll in and show proof of enrollment in a parenting class. A letter from Jack Roth (Roth), a social worker from the DCFS, was attached to the report. It stated that appellant told him that she had not enrolled in the parenting class. Roth stated that he had appellant sign affidavits acknowledging that referrals for the parenting class had been provided to her.

On March 19, 2010, appellant was a "miss-out," in the petty theft case, when the case was called for a possible probation violation. It appears that she was in custody at the time, as the minute order of that hearing stated, "The defendant is ordered out from county jail on the court date indicated below for a possible probation violation hearing. The defendant is currently in custody on a violation matter."

Appellant appeared before Judge Chung four days later for the alleged probation violations in the petty theft case. Judge Chung remanded appellant into custody and set bail at no bail. Because the alleged violations were tied to the abduction case, he conferred with Judge Richman, who was willing to have the abduction case sent to Judge Chung for handling with the petty theft case. Judge Chung continued the hearing until the file in the abduction case was received.

At a hearing on April 6, 2010, Judge Chung stated that he was still waiting for the abduction case file. Appellant requested a showing of probable cause for her detention, claiming there was none.

At the next hearing two weeks later, Judge Chung acknowledged that appellant was eager to resolve the case. Appellant asked to represent herself. The request was granted, and standby counsel was appointed. Judge Chung explained to appellant: "[Y]ou are here for a possible violation of probation on your two felony matters. I am still trying to get the BA case up here from downtown Los Angeles. . . . I need that to handle all these cases simultaneously because it seems like your conduct may have violated probation on both matters so I need both cases before me. So what I intend to do is . . . bring your matter back, with your permission, on May 12th." Judge Chung told appellant that probation was preliminarily revoked on both matters and that was why she was being held in custody. Appellant reiterated her request for "probable cause to arrest." Judge Chung stated that he needed both files before he could make that decision.

When appellant appeared before Judge Chung in the petty theft case at a May 12, 2010 hearing, the judge declared a doubt as to her mental competency, suspended the proceedings, and appointed two psychiatrists to evaluate her competence. A month later, one report was received finding appellant incompetent to proceed. Judge Chung continued the competency hearing to await the second psychiatrist's report. Appellant stated that she did not give up Judge Richman's jurisdiction of the abduction case. Several weeks later the second report was received, and it also found appellant incompetent to proceed. The judge therefore revoked appellant's in propria persona (pro. per.) status, appointed counsel for her and suspended the proceedings. He ordered appellant to the Department of Mental Health for placement in Patton State Hospital.

On January 11, 2011, appellant appeared in the north district court in both the petty theft and abduction cases. Judge Chung announced that Patton State Hospital had found appellant competent. He reinstated the proceedings. Appellant again requested that the abduction case be returned to the central district court. Judge Chung denied the request because "we are going to handle all the cases together."

The next day, Judge Chung suggested that the parties should attempt to resolve the case so that appellant could be released for time served. However, he noted a "technical issue" that appellant's pro. per. status had been revoked because she was found incompetent but that she again had the constitutional right to be pro. per., "so right now [he was] counting [her] as being pro. per." In order to accomplish her release for time served, the court suggested that appellant give up her pro. per. status, stating, "Are you willing to give up your pro. per. status just for a day or two? I will get an attorney here and I will review the file with the attorney and we might be able to fashion a resolution where you get out tomorrow and then you would be placed on parole." Appellant agreed to give up her pro. per. status. After she did so, Judge Chung stated: " . . . I will get an attorney here tomorrow. . . . And we will see if we can get you released tomorrow. I can't promise anything but that is what we think will happen." Appellant responded, "Okay."

Two days later appellant appeared in the north district court for the probation violation hearing. She refused to admit that she was in violation, necessitating the hearing. The prosecutor submitted the case on the probation officer's report of April 5, 2010. Judge Chung then asked defense counsel if he "wish[ed] to be heard." Defense counsel made no objection and submitted without introducing any evidence. After reviewing and considering the probation report, the judge found appellant in violation of probation for failing to enroll in parenting classes. It sentenced her to two years in state prison in the petty theft case, finding that she had presentence credits of 770 days and, therefore, had served her time for the two-year sentence. The court waived all fines and fees, "terminated" the abduction case and released appellant.

DISCUSSION

I. Due process violations in the probation revocation proceedings

A. Background

As reflected in the above procedural history, on March 18, 2010, appellant was on probation in both the petty theft and abduction cases. At that time, the probation officer prepared a probation violation report in the abduction case, alleging appellant's failure to

enroll in a 52-week parenting class, among other violations. The report mentioned the petty theft case. A subsequent report stated: "On 04/05/2010, a probation officer's report was submitted to the [north district court] Department A20 for case # MA045416 a possible violation."

On March 23, 2010, the petty theft case was called for a possible probation violation. Judge Chung remanded appellant into custody and set bail at no bail. He continued the petty theft case until the abduction case file was received from the central district court.

Appellant remained incarcerated until the April 20, 2010 hearing, where she requested an immediate probable cause hearing. The court said that it needed to wait until it received the file in the abduction case because, "I can't take action on that other case until I have it physically before me."

Due to further delays in obtaining the abduction case file and a declaration that appellant was not competent to proceed in the petty theft case, the probation violation hearing was not finally heard until January 13, 2011. At that hearing, appellant's probation in the petty theft case was terminated because of her violation of the probation condition in the abduction case that she enroll in a 52-week parenting class. She was sentenced to two years in state prison, which term was satisfied by her credit for time served.

B. Contentions

Appellant contends that she was denied due process in connection with the revocation of her probation in the petty theft case because (1) "she did not receive the required preliminary probation revocation hearing . . . and a finding of probable cause within a brief period of her arrest," (2) she was sentenced to prison without sufficient notice of the allegations against her, (3) she was detained without bail for an undue amount of time without a revocation hearing, and (4) the central district court had exclusive jurisdiction over the abduction case and "no other judge can interfere with the exercise of that jurisdiction without the defendant's consent." We conclude that appellant was not denied due process.

C. Requirements to revoke probation

In *Morrissey v. Brewer* (1972) 408 U.S. 471 (*Morrissey*), the United States Supreme Court held that a parolee facing revocation is entitled to some due process protections because normally he loses his conditional liberty and is taken into custody pending the outcome of the parole revocation hearing.[2] (*Id.* at pp. 482, 488.) Because revocation of parole is not part of the criminal prosecution, the full panoply of rights due the defendant at trial do not apply to a parole revocation proceeding. (*Id.* at p. 480.)

Morrissey established two stages in the parole revocation process; the first stage is when the parolee is arrested and detained. (*Morrissey, supra,* 408 U.S. at p. 485.) This stage is to determine if there are reasonable grounds to detain the parolee until the parole board decision. (*Id.* at p. 487.) Due process requires "that some minimal inquiry be conducted at or reasonably near the place of the alleged parole violation or arrest and as promptly as convenient after arrest while information is fresh and sources are available." (*Id.* at p. 485.) The parolee should be given notice that the hearing will occur, its purpose and the violations alleged. (*Id.* at pp. 486–487.)

The second stage of the process is the revocation hearing. This hearing should take place a reasonable time after the parolee is taken into custody. (*Morrissey, supra,* 408 U.S. at p. 488.) Although a parolee facing revocation is not entitled to the "full panoply of rights" due a defendant in a criminal trial (*id.* at p. 480), and a probation revocation hearing is more flexible and less formal than a criminal trial, the probation revocation hearing is nevertheless an important hearing at which due process requires "(a) written notice of the claimed violations of [probation]; (b) disclosure to the [probationer] of evidence against him [or her]; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) the right to confront and cross-

---

[2] The due process safeguards for parole revocation proceedings established in *Morrissey* are similarly applicable to probation revocation proceedings. (*Gagnon v. Scarpelli* (1973) 411 U.S. 778, 782; *People v. Vickers* (1972) 8 Cal.3d 451, 458 (*Vickers*).)

examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a 'neutral and detached' hearing body [or officer] . . . ; and (f) a written statement by the factfinders as to the evidence relied on and reasons for revoking [probation]." (*Id.* at p. 489; *People v. Gomez* (2010) 181 Cal.App.4th 1028, 1033–1034 (*Gomez*).)

D. Claimed due process violations

1. Lack of prerevocation hearing

Appellant claims that before she was taken into custody she did not receive what she calls a "preliminary hearing" to determine probable cause that a probation violation had occurred. While she did not specifically request such a hearing at the time probation was summarily revoked, she did make the request at subsequent hearings prior to the probation violation hearing. Though there was no formal prerevocation hearing, we conclude that probable cause that a probation violation had occurred was constitutionally determined, and that even if it was not, appellant suffered no consequent prejudice.

As previously stated, revocation of probation requires a prerevocation hearing close in time and place to the alleged violation. (*Morrissey, supra,* 408 U.S. at p. 485.) The purpose of that hearing is to "determine if there is sufficient evidence of violation to warrant detention of a probationer until a more formal hearing can be had." (*People v. Hawkins* (1975) 44 Cal.App.3d 958, 967.)

While appellant refers to the prerevocation hearing as a "preliminary hearing," the determination of whether there is probable cause to establish a probation violation requires less formality than that required for a preliminary hearing on new charges filed. A preliminary hearing is for defendants who are presumed innocent. A prerevocation hearing is for a defendant who has been found guilty and been given probation as a matter of grace. No formal hearing is required. In California, which permits summary probation revocation, this stage of the revocation proceedings can even be based on a probation officer's report. (§ 1203.2 [allows revocation of probation if there is reason to believe the probation report "or otherwise" that the defendant has violated probation conditions]; *People v. Victor* (1967) 252 Cal.App.2d 531, 535; see also *People v. Ruiz*

(1975) 53 Cal.App.3d 715, 718–719; see also *People v. Campos* (1988) 198 Cal.App.3d 917, 921; *Gomez, supra,* 181 Cal.App.4th at p. 1034.)

Here, appellant had adequate notice of the alleged probation violations. On March 18, 2010, the probation officer filed a probation report in the abduction case alleging a violation of probation based, in part, on appellant's failure to enroll in a 52-week parenting course. The report mentioned the petty theft case. On April 5, 2010, a probation officer's report was submitted to the north district court for the petty theft case. Section 1203.2, subdivision (b) required that notice of that report be given to the probationer or his or her attorney. When appellant appeared in the north district court for a possible probation violation on March 23, 2010, Judge Chung informed her that the alleged probation violations were tied to the abduction case. At no time did appellant inquire as to what those allegations were or otherwise suggest that she was unaware of them. Hence, it is reasonable to infer that appellant was aware of the allegations against her.

Judge Chung had sufficient information before him to allow him to find probable cause that appellant had violated her probation. One condition of appellant's probation in the petty theft case was that she obey all court orders. From the probation report, Judge Chung was aware that appellant had potentially violated the central district court's probation orders in the abduction case, a violation of the condition of her probation in the petty theft case. He stated in open court that he had conferred with the trial judge in the abduction case, presumably learning the basis of the probation officer's claim of violation, as he also said the two violations were tied together. He also had the probation report. Whether Judge Chung based his conclusion on the probation report as he was entitled to do (*Gomez, supra,*181 Cal.App.4th at p. 1034), or on the description of the violation by the trial judge in the abduction case, we find that review adequate. (§1203.2, subd.(b) [if there is reason to believe the probation report "or otherwise"].)

Even if the trial judge's actions were insufficient to satisfy appellant's right to a timely prerevocation hearing, denial of a prerevocation hearing "does not necessarily mean that [appellant] is automatically entitled to relief." (*In re La Croix* (1974) 12

Cal.3d 146, 154 (*La Croix*).) In *La Croix*, the petitioner was arrested for drunk driving and charged with violating his parole. He was notified that he had a right to a prerevocation hearing, and he requested that hearing, but it was never held. (*Id*. at p. 150.) The petitioner then sought a writ of habeas corpus, claiming he was being improperly incarcerated as a parole violator since he had not been accorded the parole revocation hearings mandated by *Morrissey*. He argued that "in all instances of a wrongful denial of a timely prerevocation hearing a parolee must be restored to parole status." (*La Croix*, *supra*, at p. 155.) The California Supreme Court held that although one with knowledge of his right to a revocation hearing could waive it by failing to request it, the petitioner had clearly made such a request and was improperly denied his hearing. (*Id*. at p. 153.) Nevertheless, it concluded that the failure to hold the prerevocation hearing was harmless because the petitioner could demonstrate no prejudice by the failure of the hearing to be held. "He presents nothing which even suggests that all factual issues to be presented at the summary prerevocation hearing to which he was entitled would not necessarily have been resolved against him." (*Id.* at p. 155.)

The burden is on the petitioner to show prejudice. (*La Croix*, *supra*, 12 Cal.3d at p. 154 ["It is manifest that in the instant case petitioner cannot establish that he was prejudiced by the denial of such a timely prerevocation hearing"].) Appellant fails to make any such showing here. Appellant does not suggest any manner in which she can successfully challenge the fact that she failed to provide proof of enrollment in the required parenting class. A letter from a DCFS social worker attached to the probation report containing the probation violations stated that appellant admitted to the social worker that she had not enrolled in the class despite the fact that he had her sign affidavits establishing that he provided her with referrals for the class. At no time before the scheduled violation hearing did appellant provide any documentation to establish the falsity of that allegation. At the probation violation hearing, the prosecutor submitted on the probation report. Appellant's counsel made no objection and similarly submitted on the probation report without introducing any evidence. We are persuaded that the failure

to hold a prerevocation hearing was harmless beyond a reasonable doubt. (*Chapman v. California* (1967) 386 U.S. 18, 24.)

2. Undue delay in conducting violation hearing

Appellant also claims that her due process rights were violated as a result of the excessive length of time that she was in custody before the probation revocation hearing was conducted. Once a defendant is brought before the court, he or she shall not be detained pending "'the hearings mandated by *Morrissey* and *Vickers* for an "undue time."'" (*People v. Hawkins, supra,* 44 Cal.App.3d at p. 966.) Appellant asserts that there was undue delay in the probation violation hearing. She argues that between March 23, 2010, the time she was taken into custody for the probation violation in the petty theft case, and January 13, 2011, the day of the violation hearing, there were more than nine months of unjustified delay. We disagree.

Eight months of the delay in conducting the probation violation hearing were attributable to the judge declaring a doubt on May 12, 2010, as to appellant's competency to proceed and the resulting suspension of the proceedings. Two months later psychiatric reports indicated that appellant lacked the capacity to proceed. She was ordered under the control of the Department of Mental Health and assigned to Patton State Hospital.

Less than two months of the delay were the result of the difficulty Judge Chung experienced in obtaining the abduction case file from the central district court. While unfortunate that such delays are a normal part of our under-budgeted court system, we do not find that delay, under the circumstances to be inordinate. A "lapse of two months . . . would not appear to be unreasonable." (*Morrissey, supra,* 408 U.S. at p. 488.)

3. Lack of notice of violation

Appellant asserts that due process was violated because she did not receive notice of the precise nature of the alleged probation violations before the revocation hearing. Initially, we observe that appellant forfeited this contention. "Neither the defendant nor [her] counsel objected that they had inadequate notice of the charges and thus, absent objection, we will not imply inadequate notice from a record which is silent as to exactly

how the defendant was given notice of the charges." (*People v. Hawkins, supra,* 44 Cal.App.3d at p. 967.) Indeed, appellant never even asked what the alleged violations were, nor did she say anything to suggest that she did not know them. She twice requested a probable cause hearing on those violations, claiming that there was no probable cause, a claim that could not be made without knowledge of what the allegations were, inferentially indicating that she was aware of them.

Even if not forfeited, the facts belie appellant's claim. On March 18, 2010, the probation officer in the abduction case filed a report alleging a probation violation.[3] The report made reference to the petty theft case and specified numerous violations of probation in the abduction case, including that appellant failed to show proof of enrollment in a court-ordered parenting course. Appellant admits that the "probation office provided written notice of [the] probation violations," as it was required to do. (§ 1203.2, subd. (b).) The probation report served as the functional equivalent of a formal motion or petition. It was before the trial court and provided appellant with written notice of the potential revocation, giving her adequate notice of the proceedings. (See *People v. Tanner* (2005) 129 Cal.App.4th 223, 236, fn. 4 ["The written . . . violation report filed with the court for the . . . hearing gave [defendant] notice of his numerous breaches of the conditions of his probation. . . ."]; *People v. Buford* (1974) 42 Cal.App.3d 975, 982 [due process satisfied when defendant served with revocation petition], disapproved on other grounds in *People v. Rodriguez* (1990) 51 Cal.3d 437, 444–445, fn. 3.)

On March 23, 2010, when Judge Chung remanded appellant into custody in the petty theft case, he stated that she was being taken into custody for possible probation violations in two felony matters and that he was still trying to obtain the file in the abduction case, which had to be handled with the petty theft case because "it seems like your conduct may have violated probation on both matters. . . ." This informed appellant

---

3 A probation report is considered a court record. (*County of Placer v. Superior Court* (2005) 130 Cal.App.4th 807, 812.)

that the alleged violations in the abduction case formed the basis of the violations in the petty theft case.

These facts support the inference that appellant knew of the violations alleged in the abduction case and that those same violations were the basis of the probation violations alleged in the petty theft case.

4. Judge in downtown court had exclusive jurisdiction over abduction case

Appellant claims that her due process rights were violated because she "made it clear she wanted to keep both cases separate and have the [abduction case] heard in downtown Los Angeles. The original judge in downtown Los Angeles retains exclusive jurisdiction over the case and no other judge can interfere with the exercise of that jurisdiction without the defendant's consent." In support of this claim appellant cites *People v. Ellison* (2003) 111 Cal.App.4th 1360, 1364–1365 (*Ellison*).)

In *Ellison*, Judge Cissna, the superior court judge who had been presiding over the case, was unable to preside over the sentencing hearing, so the defendant entered an *Arbuckle* waiver, and the case was assigned to Judge Neville. (See *People v. Arbuckle* (1978) 22 Cal.3d 749.) However, after Judge Neville presided over the defendant's sentencing hearing and issued an order relating to the sentencing, Judge Cissna sought to interfere with the sentence. On appeal, the court reasoned that, by entering an *Arbuckle* waiver, the defendant had agreed to be sentenced by a judge other than Judge Cissna. (*Ellison, supra*, 111 Cal.App.4th at p. 1367.) Moreover, Judge Neville had issued an order pertaining to the sentencing and had obtained exclusive jurisdiction over the sentencing; thus, "no other judge could thereafter interfere with his exercise of his sentencing power. [Citation.] . . . 'If such were not the law, conflicting adjudications of the same subject-matter by different departments of one court would bring about an anomalous situation and doubtless lead to much confusion.' [Citation.]" (*Ibid*.)

Ellison is inapposite. First, the case before us is not one in which two judges in the same court issued conflicting rulings. Judge Chung and Judge Richman handled these two cases cooperatively; on December 22, 2009, Judge Richman took appellant's plea in the abduction case, placed her on three-years' probation, revoked probation in the

petty theft case, reinstating it on the same conditions as were imposed on the abduction case. In March 2010, Judge Chung conferred with Judge Richman, who agreed that both matters should be handled together by Judge Chung. This of course was more efficient by eliminating the need for two probation violation hearings on the same alleged violations. Second, unlike *Ellison*, this is not a case where a judge interfered with a sentence imposed by another judge in the same court, but rather a case where a different judge than the judge who placed the defendant on probation handled a probation violation hearing. "[T]here is a distinction between a sentencing hearing following a plea of guilty and a sentencing following a revocation hearing." (*People v. Beaudrie* (1983) 147 Cal.App.3d 686, 694.) Third, unlike *Ellison*, it does not appear that the Los Angeles branch of the superior court performed any acts with regard to the probation revocation proceeding before the matter was transferred to Judge Chung in the Antelope Valley courthouse. A judge who makes a probation order is not required to hear any subsequent motions. (*People v. Madrigal* (1995) 37 Cal.App.4th 791, 795.) *People v. Arbuckle*, *supra*, 22 Cal.3d 749, which requires a defendant who entered into a plea bargain to insist that the judge who accepted his or her plea pass sentence, has not been extended to probation violations. (*People v. Martinez* (2005) 127 Cal.App.4th 1156, 1159.)

II. Admission of hearsay at probation revocation hearing

A. Background

On January 11, 2011, after Judge Chung announced that Patton State Hospital found appellant competent to proceed, he reinstated the probation violation proceedings and returned appellant's pro. per. status, which she had when the proceedings were suspended. He suggested that the parties attempt to resolve the case so that appellant could be immediately released for time served. To facilitate doing so, he suggested that appellant give up her pro. per. status, which she said she was willing to do.

Two days later, at the probation violation hearing where appellant was represented by counsel, she refused to admit the probation violation, necessitating a hearing. The trial court admitted in evidence the probation officer's report in which the probation officer stated that appellant had failed to show him proof of enrollment in a 52-week

parenting class. A letter from Roth, the DCFS social worker, was attached to the report. It stated: "CSW Roth asked mother if she had enrolled in a parenting program. Mother stated that she had not done so." It also stated that Roth asked appellant "for proof of enrollment in the court ordered caseplan requirements. Mother continually refused to provide documentation to prove enrollment in any of the requirements." The prosecutor submitted on the probation report. Judge Chung then asked defense counsel if he "wish[ed] to be heard." Defense counsel made no objection and submitted without introducing any evidence. The trial court found appellant to be in violation of probation and sentenced her to a two-year state prison term.

B. Contentions

Appellant contends that the trial court abused its discretion in admitting in evidence the probation report and attached letter at her probation revocation hearing. She argues that the evidence contained hearsay statements of the probation officer and Roth and violated her due process right to confront and cross-examine adverse witnesses. The People contend that appellant forfeited this contention. We agree with the People.

C. Forfeiture

"Failure to make a timely objection or motion to strike inadmissible evidence constitutes a waiver of the right to later complain of its erroneous admission . . . . [Citation.] Parties also waive the right to later contest the admissibility of evidence where counsel fails to state the specific, correct ground or grounds supporting the objection. [Citation.]" (*Mosesian v. Pennwalt Corp.* (1987) 191 Cal.App.3d 851, 865, disapproved on other grounds in *People v. Ault* (2004) 33 Cal.4th 1250, 1272, fn. 15.) "A prerequisite to raising an issue for appellate review is an objection in the trial court thus preserving the issue for the appeal court. . . . The rule also requires the objection be made on the same grounds urged on appeal. [Citation.]" (*People v. Derello* (1989) 211 Cal.App.3d 414, 428.) It is unfair and inefficient to permit a defendant to raise a claim of error on appeal that, if timely brought to the attention of the trial court, could have been easily corrected or avoided. (*People v. Saunders* (1993) 5 Cal.4th 580, 590.)

Constitutional claims as well as admissibility of evidence claims may be forfeited. (*People v. Raley* (1992) 2 Cal.4th 870, 892.)

Appellant forfeited both her hearsay and right to confront and cross-examine adverse witness's claims by failing to raise them in the court below. At the violation hearing, she refused to admit the violations, requiring that the hearing proceed. The prosecutor submitted the case based on the probation report with Roth's attached letter. As appellant sat by silently, appellant's counsel did not object to the admission of the report and letter and, when specifically asked by Judge Chung if he had anything more to offer, he submitted without offering any evidence. Thus, the claims appellant makes now were not preserved in the trial court. (*People v. Sanchez* (1977) 72 Cal.App.3d 356, 360 ["[A]n accused who is represented by counsel at a *Morrissey*-type hearing may by his silence acquiesce in his counsel's waiver of *Morrissey* rights"]; *People v. Dale* (1973) 36 Cal.App.3d 191, 195.)

Relying on *Gomez*, *supra*, 181 Cal.App.4th at page 1028, appellant argues that she did not forfeit her evidentiary and due process claims. We agree with the People that *Gomez* is distinguishable. In that case, the defendant objected to the admission of the probation report on the grounds that it was hearsay and not based on personal knowledge. On appeal, however, the defendant argued that the admission of the report violated due process and his right to confront the witnesses against him. Citing *People v. Partida* (2005) 37 Cal.4th 428, 435, the Court of Appeal concluded that appellant did not forfeit his constitutional claims because "[t]he due process issue is inextricably entwined with the evidentiary problems presented by the report in this context. No unfairness to the parties or the court results from considering this claim on appeal." (*Gomez, supra,* at p. 1033.) Unlike in *Gomez,* appellant here did not object to the admission of the probation report on hearsay grounds, or on any ground at all.

Indeed, not only did appellant not raise these claims in the trial court, she appeared to be more focused on receiving a time-served sentence, so that she could obtain her immediate release. Just a couple of days before the probation violation hearing, appellant agreed to give up her pro. per. status when Judge Chung suggested that doing so might

facilitate achieving that conclusion. With release as her overriding objective, it is not surprising that appellant would not object to the admission of the probation report and not want to waste time introducing any evidence. This record suggests that the failure to object to the report and attachment was not a mere oversight so much as a conscious decision to obtain prompt release.

Having concluded that appellant forfeited the objections to the challenged evidence, we need not decide the thorny question of whether that evidence would have been admissible if proper objections to them had been asserted.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
ASHMANN-GERST

We concur:

_____, P. J.
BOREN

_____, J.
CHAVEZ