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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

CURT BARRON,

Defendant and Appellant.

B239362

(Los Angeles County Super. Ct.  
No. NA087879)

APPEAL from a judgment of the Superior Court of Los Angeles County, Gary J. Ferrari, Judge. Affirmed.

Joanna Rehm, 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, Stacy S. Schwartz and Michael Katz, Deputy Attorneys General, for Plaintiff and Respondent.

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Defendant and appellant Curt Barron was committed to the former California Youth Authority (now the Department of Corrections and Rehabilitation) on a charge of rape in 1982. He was paroled on September 26, 1985, and discharged from the Youth Authority on November 4, 1987. The issue presented in this appeal is whether defendant was required to register as a sex offender under Penal Code section 290.008, subdivision (a),<sup>1</sup> which mandates registration for qualifying sex offenders “discharged or paroled” from the Youth Authority “on or after January 1, 1986.” We hold that the plain language of the statute requires registration if either the date of discharge *or* the date of parole from the Youth Authority was on or after January 1, 1986. Accordingly, we affirm the trial court’s determination that defendant was obligated to register as a sex offender by section 290.008.

### **Procedural History**

Defendant was charged in a three-count felony complaint with failure to register as a sex offender, in violation of section 290.01, subdivision (a), section 290, subdivision (b), and section 290.013, subdivision (a). At the conclusion of the preliminary hearing, the magistrate dismissed the complaint on the basis that defendant was not subject to the registration requirement under section 290.008, subdivision (a).

The reasoning is of the magistrate is not entirely clear. The magistrate apparently concluded that if defendant was paroled from the Youth Authority prior to January 1, 1986, the statutory provision requiring registration of a person discharged from the Youth Authority after the statute’s effective date became inoperative. The magistrate noted that the Legislature’s use of the word “‘or’ allows for either event,” but “if they wanted both events . . . they would have used ‘and,’ so you would have had to have been paroled and discharged prior to 1986, and that’s my ruling.”

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<sup>1</sup> All statutory references are to the Penal Code, unless otherwise indicated.

The prosecution filed a motion to reinstate the complaint pursuant to section 871.5. After the motion was granted, the magistrate entered a new order holding defendant to answer. Defendant's section 995 motion to dismiss was denied.

Pursuant to a case settlement agreement, defendant entered a plea of no contest to the charge of failing to update his registration as a sex offender in violation of section 290.012, subdivision (a). He was sentenced to the low term of 16 months in state prison. Two additional counts and multiple recidivist allegations were dismissed on the motion of the prosecution. Defendant filed a timely notice of appeal challenging the validity of the plea and obtained a certificate of probable cause under section 1237.5 to challenge, inter alia, the reinstatement of the complaint.

## **DISCUSSION**

Defendant renews the argument accepted by the magistrate at the preliminary hearing, contending that section 290.008, subdivision (a), does not require him to register because he was paroled before the operative date of the statute. We disagree, because the statute created two independent and alternative events to trigger the registration requirement.

The statutory scheme providing for registration of sex offenders is found in section 290, et seq. The provision in dispute in this appeal, section 290.008, subdivision (a),<sup>2</sup> provides as follows: "Any person who, on or after January 1, 1986, is discharged or paroled from the Department of Corrections and Rehabilitation to the custody of which he or she was committed after having been adjudicated a ward of the juvenile court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of any offense described in subdivision (c) shall register in accordance with the Act."

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<sup>2</sup> The statute was originally enacted as section 290, subdivision (d)(1), and was renumbered in 2006 without material change.

“Our role in construing a statute is to ascertain the intent of the Legislature in order to effectuate the purpose of the law. (*People v. Jefferson* (1999) 21 Cal.4th 86, 94.) Because the statutory language is generally the most reliable indicator of that intent, we look first at the words themselves, giving them their usual and ordinary meaning and construing them in context. (*People v. Lawrence* (2000) 24 Cal.4th 219, 230–231.) If the plain language of the statute is clear and unambiguous, our inquiry ends, and we need not embark on judicial construction. (*White v. Ultramar, Inc.* (1999) 21 Cal.4th 563, 572; *People v. Walker* (2000) 85 Cal.App.4th 969, 973.) If the statutory language contains no ambiguity, the Legislature is presumed to have meant what it said, and the plain meaning of the statute governs. (*People v. Lawrence, supra*, at pp. 230–231; *People v. Dyer* (2002) 95 Cal.App.4th 448, 453.)” (*People v. Johnson* (2002) 28 Cal.4th 240, 244.)

The unambiguous meaning of subdivision (a) of section 290.008 is that registration as a sex offender is required of a person discharged *or* paroled from the former Youth Authority after January 1, 1986. “That is, a person is required to register as a sex offender only if the person has been ‘discharged or paroled’ from the CYA and the CYA commitment was both *after and because of* a sex offense adjudication.” (*In re Alex N.* (2005) 132 Cal.App.4th 18, 24.)

“‘The plain and ordinary meaning of the word “or” is well established. When used in a statute, the word “or” indicates an intention to designate separate, disjunctive categories. [Citations.]’ (*Smith v. Selma Community Hospital* (2010) 188 Cal.App.4th 1, 30; see *White v. County of Sacramento* (1982) 31 Cal.3d 676, 680 [use of the word ‘or’ in a statute indicates an intention to designate alternative or separate categories].)” (*Boy Scouts of America National Foundation v. Superior Court* (2012) 206 Cal.App.4th 428, 444.)

Defendant was committed to the former Youth Authority for a qualifying sex offense. He was paroled prior to January 1, 1986, so under the terms of section 290.008, he was not obligated to register as a sex offender based on the parole provision of the statute. However, he was discharged from the Youth Authority on November 4, 1987.

Under section 290.008, defendant was obligated to register as a sex offender discharged from the Youth Authority after January 1, 1986.

**DISPOSITION**

The judgment is affirmed.

KRIEGLER, J.

We concur:

TURNER, P. J.

MOSK, J.