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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

ADEKUNLE OLOBA-AISONY,

Defendant and Appellant.

B268069

(Los Angeles County
Super. Ct. No. 5PH08217)

APPEAL from a judgment of the Superior Court of Los Angeles County. Jacqueline Lewis, Judge. Affirmed.

Wayne C. Tobin, 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, Steven D. Matthews, Supervising Deputy Attorney General, and Rama R. Maline, Deputy Attorney General, for Plaintiff and Respondent.

Adekunle Oloba-Aisony appeals from the judgment entered following the revocation of his parole. (Pen. Code,¹ § 3000.08, subd. (f).) Appellant contends the trial court abused its discretion in revoking his parole because the revocation order is unsupported by substantial evidence that appellant's conduct violated any conditions of his parole. We disagree and affirm.

Appellant was convicted and sentenced to 10 years in state prison for multiple sexual assault offenses committed against five young women in 2002. Division Two of this district affirmed appellant's convictions in an unpublished opinion filed November 25, 2003. (*People v. Oloba-Aisony* (Nov. 25, 2003, No. B163774) [2003 Cal.App.Unpub. LEXIS 11099].)

On October 14, 2015, the California Department of Corrections and Rehabilitation filed a petition for revocation of appellant's parole, charging appellant in the accompanying parole violation report (PVR) with violation of the terms of his parole by "loitering [in] places where children congregate." The PVR specified that as part of the Special Conditions of Parole Addendum appellant had signed on June 29, 2015, he had initialed condition number 18, which stated: "You shall not enter or loiter within 250 feet of the perimeter of places where children congregate, (e.g., day care centers, schools, parks, playgrounds, video arcades, swimming pools, state fairgrounds, county fairgrounds, etc.)" The PVR alleged that appellant violated this condition on September 29, 2015, between the hours of 9:49 p.m. and 10:25 p.m., and on September 30, 2015, between the hours of 12:05 a.m. and 12:59 a.m., when he went to Venice beach. The

¹ Undesignated statutory references are to the Penal Code.

PVR also alleged that appellant violated the parole condition when he went to Dockweiler State Beach three times—on October 4, 2015, between 8:46 p.m. and 9:35 p.m., and 9:48 p.m. and 10:12 p.m., as well as on October 7, 2015, between 12:27 a.m. to 12:59 a.m.

Appellant testified at the revocation hearing that he had been employed as a contract laborer, and on the dates in question he was cleaning up hazardous material at Venice and Dockweiler beaches. He explained that his duties included dropping materials off and setting up tents near the beach during the day, and returning to clean the beach at night. No children were present at any of the times the PVR alleged he was at Dockweiler beach. Later in the hearing, appellant denied being at Venice beach at all, but claimed he had only been to a car park and restaurant near the beach.

Appellant's parole agent testified that appellant had previously violated the parole condition that he stay at least 250 feet away from any place where children congregate. The parole agent further testified that he had told appellant on numerous occasions that appellant was not permitted to go to the beach under the terms of his parole. The agent tracked appellant's whereabouts using the "VeriTracks" tracking system. The VeriTracks printouts for September 29 and 30, 2015, showed appellant at several different locations on the sand at Venice beach.

During disposition, appellant addressed the court. He denied that his parole agent ever told him he could not go to the beach and maintained that his parole conditions do not specify

the beach as a prohibited location. He further argued that there is no basis for this particular parole condition because none of the victims in his sexual offense convictions was a minor.²

The trial court sustained the petition for revocation of appellant's parole, finding by a preponderance of the evidence that appellant had violated the conditions of his parole "by loitering in places where children congregate." The court declared that the People were not required to show that children were present at the time in order to prove a violation of parole. The court further noted that this was appellant's fourth violation to come before the court in the past year, and while "there's always an excuse for him being where he's not supposed to be," he never called his parole agent to ask if he could go to a particular location for a job. The court also rejected appellant's complaint that the parole condition was overly broad, finding it to be narrowly tailored based on appellant's criminal history.

The trial court revoked appellant's parole and ordered him to serve 180 days in county jail. Appellant received 30 days of custody credits.

DISCUSSION

The Trial Court Did Not Abuse Its Discretion in Revoking Parole

Parole may be revoked only upon a showing of cause (§ 3063; *In re Miller* (2006) 145 Cal.App.4th 1228, 1234), where "the interests of justice so require and the court, in its judgment, has reason to believe from the report of the probation or parole

² To the contrary, appellant was convicted of sexual battery by restraint (§ 243.4, subd. (a)) against 15-year-old Brittany H.

officer or otherwise that the person has violated any of the conditions of his or her supervision, has become abandoned to improper associates or a vicious life, or has subsequently committed other offenses, regardless of whether he or she has been prosecuted for those offenses.” (§ 1203.2.)

The trial court’s parole revocation determination must rest on a preponderance of evidence. (§ 3044, subd. (a)(5); *In re Miller*, *supra*, 145 Cal.App.4th at pp. 1234–1235.) But on appeal from a revocation of parole, we review the trial court’s findings for substantial evidence. (*People v. Urke* (2011) 197 Cal.App.4th 766, 773.) “Under that standard, our review is limited to the determination of whether, upon review of the entire record, there is substantial evidence of solid value, contradicted or uncontradicted, which will support the trial court’s decision.” (*People v. Kurey* (2001) 88 Cal.App.4th 840, 848.) We accord great deference to the trial court’s decision, resolving all inferences and conflicting evidence in favor of the judgment. (*People v. Urke*, at p. 773; *People v. Kurey*, at pp. 848–849.) A trial court has broad discretion in determining whether to revoke parole, and its decision will not be overturned in the absence of an abuse of that discretion. (*People v. Rodriguez* (1990) 51 Cal.3d 437, 445; *In re Miller*, *supra*, 145 Cal.App.4th at pp. 1234–1235.) Our Supreme Court has declared that “a trial court does not abuse its discretion unless its decision is so irrational or arbitrary that no reasonable person could agree with it.” (*People v. Carmony* (2004) 33 Cal.4th 367, 377.)

The parole condition at issue here prohibited appellant from *entering or loitering* within 250 feet of places where children congregate. Appellant argues that the wording of the condition “strongly implies” that a violation occurs only when a parolee enters and remains in a restricted location without any legitimate

purpose. He also contends that the term “loiter” has a “unique meaning,” requiring more than mere presence in an area. Appellant thus asserts that substantial evidence does not support the revocation of his parole because his presence on the beaches was a legitimate aspect of his employment and did not constitute loitering. The contention lacks merit.

Appellant’s parole condition clearly and simply states that appellant “shall not enter or loiter within 250 feet of places where children congregate.” There is no specification of a time of day when the prohibition applies, or any requirement that children actually be present in order for entry into the area to trigger a parole violation. There is also no exception for entry into prohibited areas for purposes of employment. Although the condition does not specifically mention beaches, the trial court reasonably inferred that “a beach is a place where children congregate,” and appellant’s parole agent specifically told appellant on numerous occasions that he could not go to the beach under the terms of his parole. Nevertheless, appellant admitted that on three separate occasions he went to Dockweiler beach, and the VeriTracks printout established appellant’s presence at Venice beach twice in one night.

The trial court’s conclusion that appellant had violated the condition of his parole restricting his entry into areas where children congregate is supported by substantial evidence. Accordingly, we find no abuse of discretion in the trial court’s revocation of appellant’s parole.

Appellant concludes with an argument that the parole revocation here arbitrarily punishes appellant for conduct which may have violated the letter, but not the spirit of the conditions of his parole. According to appellant, “Such methods of parole supervision hardly assist in the struggle against recidivism.

Appellant did the right thing and still got punished.” However, appellant admitted he never consulted with his parole agent for an exception to the restriction to allow him to work at the beach during late-night hours when children would not be present. Moreover, the argument ignores the function of parole conditions as the agreement a parolee makes in exchange for the benefit of release from prison before completion of the sentence. (*Morrissey v. Brewer* (1972) 408 U.S. 471, 477 [“essence of parole is release from prison, before the completion of sentence, on the condition that the prisoner abide by certain rules during the balance of the sentence”].) After accepting the benefit of parole, appellant seeks to modify the conditions of that parole to suit his alleged work schedule without properly notifying his parole officer. But having taken the benefit of parole, appellant must abide by its conditions. Based on appellant’s multiple violations of his parole condition not to enter an area where children congregate, the trial court properly exercised its broad discretion in revoking his parole.

DISPOSITION

The judgment is affirmed.
NOT TO BE PUBLISHED.

LUI, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.