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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

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

B245851
(Los Angeles County
Super. Ct. No. JJ19824)

THE PEOPLE,

Plaintiff and Respondent,

v.

CRYSTAL G.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County,
Charles Scarlett, Judge. Affirmed.

Sarah A. Stockwell, 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, Senior Assistant Attorney General, Marc A. Kohm
and Stephanie C. Santoro, Deputy Attorneys General, for Plaintiff and Respondent.

Crystal G. appeals from the juvenile court's order declaring her a ward of the court and placing her home on probation, contending one of her probation conditions is overbroad. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Crystal, then 14 years old, was taken into custody after she repeatedly punched Nataly R. in the head, pulled her hair and pushed her to the ground. A Welfare and Institutions Code section 602 petition was filed, alleging Crystal had committed misdemeanor battery. Crystal denied the allegation.

Following the jurisdiction hearing, the juvenile court found the allegation true, sustained the petition and declared the offense a misdemeanor.

At the disposition hearing, Crystal was declared a ward of the juvenile court and ordered home on probation, subject to various terms and conditions, among them condition 14, which states, "Do not stay away from your residence for more than 24 hours or leave Los Angeles County except times or places specifically permitted in advance by the probation officer." The condition was imposed without objection.

DISCUSSION

Crystal now challenges probation condition 14 as overbroad because it impermissibly infringes on her right to travel.

1. Standard of Review

The juvenile court has "wide discretion to select appropriate conditions and may impose "any reasonable condition that is 'fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.'"" [Citations.]" (*In re Sheena K.* (2007) 40 Cal.4th 875, 889.) We review contested probation conditions imposed by the juvenile court for abuse of discretion. (*In re Josh W.* (1997) 55 Cal.App.4th 1, 5.) A probation condition that would be unconstitutional or otherwise improper for an adult probationer may be permissible for a minor under the supervision of the juvenile court. (*In re Sheena K., supra*, 40 Cal.4th at p. 889.)

2. *Legal Principles*

a. *Forfeiture*

Generally, a probation condition may not be challenged for the first time on appeal, where an objection could have been but was not made in the trial court. (*People v. Welch* (1993) 5 Cal.4th 228, 234-235.) Probationers in delinquency proceedings are not exempt from the forfeiture rule. (*In re Sheena K.*, *supra*, 40 Cal.4th at p. 889.) However, a facial challenge to a probation condition as unconstitutionally vague or overbroad may be raised for the first time on appeal, if it presents a pure question of law, such that it is capable of correction without reference to the particular sentencing record in the trial court. (*Id.* at pp. 878-879, 888-889.)

b. *Overbreadth*

A probation condition that impinges on a constitutional right is not overbroad, if it is carefully tailored and reasonably related to the compelling state interest in reformation and rehabilitation. (*In re Sheena K.*, *supra*, 40 Cal.4th at p. 890.) “The essential question in an overbreadth challenge is the closeness of the fit between the legitimate purpose of the restriction and the burden it imposes on the defendant’s constitutional rights—bearing in mind, of course, that perfection in such matters is impossible, and that practical necessity will justify some infringement.” (*In re E.O.* (2010) 188 Cal.App.4th 1149, 1153.)

c. *Right to travel*

The right to travel is a protected interest, and unnecessary restrictions on that right can be unlawful. (See generally, *Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1098-1105; *In re White* (1979) 97 Cal.App.3d 141, 148 [probationer has constitutional right to intrastate travel].) On the other hand, a minor’s right to travel can be reasonably restricted to the extent necessary to aid in the minor’s rehabilitation. (See *In re Antonio R.* (2000) 78 Cal.App.4th 937, 939.)

3. *Crystal Has Forfeited Her Claim*

Probation condition 14 is a standard probation condition on the printed Los Angeles County Juvenile Court Conditions of Probation Minute Order form, which prohibits Crystal from leaving home overnight or the county without prior permission from her probation officer. The condition, like several others Crystal has not contested, was imposed not because of the facts underlying her battery offense, but because of her particular situation and need for supervision. The record shows Crystal had a history of running away, leaving school without permission, and staying out past curfew. At the request of Crystal and her mother, the juvenile court ordered Crystal placed in her mother's home on probation, after Crystal had been living with her grandmother, who had been her legal guardian since 2007.

Crystal contends probation condition 14 is unconstitutionally overbroad because it restricts her mother's and other family members' freedom to travel as well as her own.¹ According to Crystal, the condition could be more narrowly tailored and effectively serve the same rehabilitative goals if it were modified to allow her to be away from home for more than 24 hours and to travel outside the county when accompanied by her mother or legal guardian. Crystal's argument requires us to refer to the record and to consider more than just the facial constitutionality of this condition. Specifically, we would have to consider the nature of Crystal's current living situation, her travel needs, and the willingness and ability of her mother and other family members to accompany Crystal and to supervise her away from home. Thus, Crystal's claim does not raise a pure question of law and is forfeited. (*In re Sheena K.*, *supra*, 40 Cal.4th at p. 889.)

The primary justifications for the forfeiture rule – to provide the trial court with the opportunity to correct any defect and to make findings based on a fully developed record (see *In re Wilford J.* (2005) 131 Cal.App.4th 742, 754) – and the difficulty in reviewing such cases are underscored here. Even if we were to consider the merits of

¹ Crystal is not contending she was deprived of the opportunity in juvenile court to object to the imposition of probation condition 14.

Crystal's claim, the record does not establish any factual support for her proposed modification to probation condition 14. While the condition may not be adequately tailored to accommodate Crystal's individualized circumstances, because she did not raise the issue in juvenile court, there is insufficient factual record from which to make this determination.

DISPOSITION

The order is affirmed.

WOODS, J.

We concur:

PERLUSS, P. J.

SEGAL, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.