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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re ALEX L., a Person Coming  
Under the Juvenile Court Law.

B272390  
(Los Angeles County  
Super. Ct. No. FJ52849)

THE PEOPLE,

Plaintiff and Respondent,

v.

ALEX L.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Robert Leventer, Judge. Reversed.

Courtney M. Selan, under appointment by the Court of Appeal, for Defendant and Appellant.

Kathleen A. Kenealy, Acting Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters,

Assistant Attorney General, Chung Mar and Lindsay Boyd,  
Deputy Attorneys General, for Plaintiff and Respondent.

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## **SUMMARY**

Alex L. moved pursuant to Welfare and Institutions Code section 782<sup>1</sup> to dismiss the juvenile petition against him. The juvenile court denied the motion because it believed section 782 did not authorize the court to dismiss a petition involving an offense described in section 707, subdivision (b), as a serious crime. We agree with the parties that this was error, and remand the matter for the juvenile court's consideration of the merits of Alex L.'s motion.

## **BACKGROUND**

On March 27, 2015, the Los Angeles District Attorney filed a petition pursuant to section 602 alleging that Alex L., who was 17 years old, had committed two counts of second degree robbery. (Pen. Code, § 211.) Robbery is a serious crime under section 707, subdivision (b). At a July 21, 2015 hearing, Alex L. admitted the allegation as to count 1 of the petition, and the trial court, after sustaining the petition as to count 1, dismissed count 2 subject to a *Harvey* waiver.<sup>2</sup> The juvenile court declared the offense to be a felony, declared Alex L. a ward of the court pursuant to section 602, ordered him placed in a community camp program, found a

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise noted.

<sup>2</sup> Under *People v. Harvey* (1979) 25 Cal.3d 754, the court may use a dismissed count in fashioning a disposition.

maximum term of confinement of five years to be applicable, and awarded Alex L. 118 days of predisposition credit.

On February 29, 2016, Alex L. was released from community-camp placement program to the custody of his parents. On March 21, 2016, he filed a section 782 motion to dismiss the petition.

On April 26, 2016, the juvenile court held a hearing on Alex L.'s motion to dismiss. The People argued that it was "within the purview of the court whether or not to grant the [motion] based upon the seriousness of the crime," and argued on the merits for the court to deny the motion.<sup>3</sup> After hearing argument from both sides, the court declined to rule on the merits of the section 782 motion; instead, the court denied Alex L.'s motion because it believed it lacked the statutory authority or discretion to dismiss when the petition involved a section 707, subdivision (b), offense.

Alex L. appeals.

## **DISCUSSION**

### **I. Juvenile Court's Authority To Dismiss Petition Pursuant To Section 782**

Alex L. contends, and the Attorney General concedes, that the trial court had the authority to dismiss the juvenile petition against Alex L. under section 782. We agree.

"Our fundamental task is to determine the Legislature's intent and give effect to the law's purpose. [Citation.] We begin by examining the statute's words, "because they generally provide the most reliable indicator of legislative intent."

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<sup>3</sup> Because the underlying facts concerning Alex L.'s rehabilitation are not relevant to this appeal, we do not summarize them.

[Citation.] If the statutory language is clear and unambiguous our inquiry ends.” (*In re D.B.* (2014) 58 Cal.4th 941, 945-946.)

Section 782 provides in relevant part: “A judge of the juvenile court in which a petition was filed may dismiss the petition, or may set aside the findings and dismiss the petition, if the court finds that the interests of justice and the welfare of the person who is the subject of the petition require that dismissal, or if it finds that he or she is not in need of treatment or rehabilitation.” The language of section 782 is clear and unambiguous. The juvenile court has the discretion to dismiss a petition if the interests of justice and the welfare of the minor warrant such a dismissal or if the minor is not in need of treatment or rehabilitation. Section 782 does not reference section 707, nor does it contain any language limiting its application to only certain alleged offenses. As such, we find no indication that the Legislature intended section 782 to be inapplicable to juvenile petitions involving section 707, subdivision (b), offenses and hold that the juvenile court has the authority to consider Alex L.’s section 782 motion.<sup>4</sup>

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<sup>4</sup> As the parties note, the decision in *People v. Haro* (2013) 221 Cal.App.4th 718, implicitly supports this conclusion. In *Haro*, the Third District concluded that a section 782 dismissal of a petition, like a dismissal under Penal Code section 1385, in effect erased the prior conviction and precluded its use as a prior strike conviction under the “Three” Strikes law when the defendant was sentenced in another criminal proceeding. (*Id.* at p. 720.) Thus, the decision assumed the juvenile court had the discretion to grant a section 782 motion to dismiss a petition alleging a section 707, subdivision (b), offense when it addressed the effect of a section 782 dismissal on later sentencing.

## **II. Custody Credits**

Alex L. also contends the juvenile court miscalculated his predisposition credits by one day. He is correct. The juvenile court awarded Alex L. 118 days of custody credits. The record indicates Alex L. was detained for 119 days--from March 25, 2015 to July 21, 2015.

### **DISPOSITION**

The juvenile court's order denying Alex L.'s section 782 motion is reversed and the matter is remanded for consideration of the merits of the motion. We express no opinion on the merits. In addition, the trial court is directed to correct the calculation of Alex L.'s custody credits.

NOT TO BE PUBLISHED.

CHANNEY, Acting P. J.

We concur:

JOHNSON, J.

LUI, J.