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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTINE ANNE RODIN,

Defendant and Appellant.

B279352

Los Angeles County

Super. Ct. No. PA083814

APPEAL from a post-judgment order of the Superior Court of Los Angeles County, Cynthia L. Ulfig, Judge. Affirmed.

Anthony J. Patti, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Stephanie A. Miyoshi and David F. Glassman, Deputy Attorneys General, for Plaintiff and Respondent.

INTRODUCTION

Defendant Christine Anne Rodin, a bipolar and schizophrenic methamphetamine addict, pled no contest to robbery after stealing \$85 from her father and biting his wrist. Though the court granted probation and sent defendant to a yearlong, residential, mental health treatment program, she soon violated probation with four positive drug tests. She now appeals from the trial court's revocation of probation and execution of the previously imposed prison sentence. Defendant contends the court abused its discretion by terminating probation without considering other treatment options first. We affirm.

BACKGROUND

By felony complaint filed July 6, 2015, defendant was charged with one count of second-degree robbery (Pen. Code,¹ § 211; count 1) and one count of elder abuse (§ 368, subd. (b)(1); count 2). At arraignment, the court declared a doubt about defendant's competence to stand trial and suspended proceedings. She was subsequently found incompetent and transferred to Patton State Hospital for 30 days.

At some point, proceedings resumed,² and on December 2, 2015, as part of a negotiated plea, defendant pled no contest to

¹ All undesignated statutory references are to the Penal Code.

² The record does not reveal how or under what circumstances defendant was found competent to proceed. Nor does it reveal the date on which proceedings resumed. We note, however, that since defendant did not appeal from the judgment entered after her later plea, that issue is not before us.

one count of second-degree robbery.³ (*People v. Bradford* (1997) 15 Cal.4th 1229, 1374; *People v. West* (1970) 3 Cal.3d 595.) On February 3, 2016, the court sentenced defendant to the midterm of three years in state prison for count 1 and suspended the sentence pending successful completion of five years' formal probation. Among other conditions of probation, defendant was required to complete a one-year residential mental health program. She was also prohibited from using controlled substances, required to submit to drug testing, and forbidden from associating with drug users except in an authorized drug treatment program. The court dismissed count 2.

It is unclear how long defendant spent in the residential treatment program, but on July 6, 2016, the probation department notified the court that defendant had tested positive for methamphetamine four times: on May 17, May 26, June 13, and June 23, 2016. According to the probation report, defendant "stated she tested positive for methamphetamines due to having unprotected sex with two different males at her residence."

Defendant failed to appear at her July 22, 2016, court hearing. She was taken into custody on November 9, 2016, and a probation violation hearing was held on November 23, 2016. The July 6, 2016, probation report was entered into evidence, and defendant testified that her last drug test was in April 2016. The court concluded defendant had violated the terms of probation, terminated probation, and executed the previously imposed sentence of three years in state prison.

Defendant filed a timely notice of appeal. (§ 1237, subd. (b); *People v. Tijerina* (1969) 1 Cal.3d 41, 48 [order revoking

³ Defense counsel did not join in the plea.

probation and executing previously imposed prison sentence appealable as post-judgment order affecting defendant's substantial rights; defendant's notice of appeal construed as appeal from the post-judgment order despite notice purporting to appeal from the judgment].)

DISCUSSION

Defendant contends the court abused its discretion by executing the previously imposed sentence without first offering her further attempts at rehabilitation. We disagree.

A court may revoke probation when the prosecution proves by a preponderance of the evidence that the defendant willfully violated one or more probation conditions. (§ 1203.2, subd. (a); *People v. Rodriguez* (1990) 51 Cal.3d 437, 447 [burden of proof]; *People v. Galvan* (2007) 155 Cal.App.4th 978, 982 [willfulness].) The court has “very broad discretion in determining whether a probationer has violated probation.” (*Rodriguez*, at p. 443.) We review the court's factual findings for substantial evidence. (*People v. Superior Court (Jones)* (1998) 18 Cal.4th 667, 681.) We review the court's decision to revoke probation for abuse of discretion. (*Rodriguez*, at pp. 442–443.) We interfere with the court's exercise of its discretion “‘only in a very extreme case’” (*Id.* at p. 443.)

Defendant contends the court failed to exercise its discretion because it did not articulate a reason for terminating probation and ordering execution of the sentence. Certainly, the court should consider a defendant's mental illness and drug addiction when fashioning appropriate remedies. Here, however, the parties created a highly specific treatment program when placing defendant on probation in the first instance. The parties found a bed for defendant in a one-year residential treatment

program. She was prohibited from using controlled substances, required to submit to drug testing, and forbidden from associating with drug users except in an authorized drug treatment program.

The court also emphasized that if defendant violated probation, she would be sent straight to prison. During the plea colloquy, the court explained: “you’re going to have what’s known as midterm suspended, which is three years, which means if you violate your probation in any shape, form, or manner, the judge will give you three years in state prison.” Defendant said she understood. When imposing sentence, the court said: “At this point in time, execution of that sentence is suspended. Ma’am, that’s a fancy way of saying you are going to get probation, but if you violate your probation you will go to state prison for three years. Do you understand?” Defendant said she understood.

Yet within three months, defendant had resumed her drug use and failed to take responsibility for it—facts the court could properly consider. First, defendant told the probation department, implausibly, that her positive methamphetamine test stemmed from unprotected sex—activity that, in any event, would have violated the condition that she not associate with drug users. Then, defendant testified in court that she had not taken the drug tests—and therefore, could not have failed them. We find no abuse of discretion in the court’s decision to terminate probation under these circumstances.

DISPOSITION

The post-judgment order is affirmed.

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LAVIN, J.

WE CONCUR:

EDMON, P. J.

DHANIDINA, J.*

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