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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

ANTONIO LEAL MENDONSA,

Defendant and Appellant.

H052799
(Santa Cruz County
Super. Ct. No. 24CR01062)

Defendant Antonio Leal Mendonsa was released on informal probation with various conditions following a no contest plea to misdemeanor resisting or deterring a peace officer (Pen. Code, § 69) and misdemeanor harassing or interfering with a city employee (Santa Cruz Mun. Code, § 13.08.090, subd. (a)). After finding Mendonsa violated the terms of his probation, the trial court imposed a subsequent probation condition ordering Mendonsa to stay away from a portion of Pacific Avenue in downtown Santa Cruz as well as the Santa Cruz City Hall. On appeal, Mendonsa contends the stay-away order is unconstitutionally vague, overbroad, and violates his due process rights. We agree with Mendonsa that the stay-away order is unconstitutionally overbroad. We therefore strike the challenged portions of the stay-away order and remand the matter to the trial court for further proceedings.

I. FACTS AND PROCEDURAL BACKGROUND

In March 2024, Santa Cruz Police Officer Grayson Suttles was patrolling downtown Santa Cruz near the town clock when he encountered Mendonsa, who is unhoused. From across the street, Officer Suttles observed Mendonsa yelling and advancing towards Milton Rivera, a city worker who was attempting to clean Scope Park. Officer Suttles then approached Mendonsa and ordered him to stop walking towards Rivera. After Mendonsa repeatedly failed to comply with the officer's orders, he was handcuffed and arrested. Afterwards, Rivera informed Officer Suttles that he had prior incidents with Mendonsa while attempting to clean Scope Park. Rivera stated that on one occasion, Mendonsa took items that Rivera had picked up and threw them back into the park.

The Santa Cruz County District Attorney filed an information charging Mendonsa with felony resisting or deterring a peace officer (Pen. Code, § 69) and misdemeanor harassing or interfering with a city employee (Santa Cruz Mun. Code, § 13.08.090, subd. (a)). Mendonsa pled no contest to misdemeanor resisting or deterring a peace officer and misdemeanor harassing or interfering with a city employee. The trial court then suspended the imposition of sentence and placed Mendonsa on informal probation for one year, under terms and conditions which included 60 days in jail, and ordered Mendonsa to obey all laws, comply with lawful orders of law enforcement, and to "stay away from Scope Park."¹

In May 2024, Mendonsa was arraigned on a probation violation. The trial court reinstated probation with the previous terms and conditions and Mendonsa was released on the conditional sentence.

¹ The Santa Cruz Superior Court's minute order described the court's order suspending the imposition of sentence and granting informal probation as a "Conditional Sentence."

In August 2024, Mendonsa was again arrested for interfering with a city employee in the performance of her duties (Santa Cruz Mun. Code, § 13.08.090, subd. (a)), in violation of the terms of his probation. During that incident, Mendonsa verbally accosted a city employee as she cleaned Mendonsa's belongings from the Santa Cruz City Hall. Due to Mendonsa's interference, the city employee was unable to finish cleaning City Hall. Following the incident, the trial court arraigned Mendonsa on the probation violation and ordered Mendonsa to stay away from the city employee, as well as the “[v]icinity of Town Clock.” Subsequently, after finding that Mendonsa violated the terms of his probation, the trial court revoked and reinstated probation under the same terms. Mendonsa was then released on these conditions.

The following month, Santa Cruz Police Officer Sean Kauffman arrested Mendonsa for a violation of Santa Cruz Municipal Code section 9.50.011, which prohibits a person from laying down in a commercial or business district. At the October 25, 2024 probation violation hearing, Officer Kauffman testified he observed Mendonsa laying down on the sidewalk at 1520 Pacific Avenue on the day of the probation violation, covered in feces and urine. Officer Kauffman testified that Mendonsa stated, “this is my sidewalk” and cursed at him when he contacted Mendonsa for a violation of the Santa Cruz Municipal Code. Officer Kauffman added Mendonsa smelled strongly of alcohol at the time, and was surrounded by his personal property including kitchen knives and other items that could “be used as improvised weapons.” Officer Kauffman also testified that over the past several years, he had approximately “50 contacts” with Mendonsa for incidents such as “urinating and defecating in public, elder abuse, [and] battery, all within the downtown corridor.”

Based on Officer Kauffman’s testimony, the trial court found that Mendonsa violated the terms of his probation. The prosecutor then requested the trial court expand the stay-away order to include the portion of Pacific Avenue between the Town Clock and Cathcart Street, as well as City Hall “due to prior incidents that Mr. Mendonsa has

had with employees of that building.” Defense counsel objected on the ground that the order was unconstitutionally vague and overly broad because it excluded Mendonsa from “the entirety of downtown.” Counsel argued that there did not “appear to be a nexus between [Mendonsa’s] behavior and th[e] conditional sentence violation or . . . the original charge that [Mendonsa] . . . pled to . . .” After overruling the objection, the trial court revoked and reinstated probation. Granting the prosecutor’s request, the trial court ordered Mendonsa to stay away from City Hall and both sides of Pacific Avenue, starting from North of the clock tower on Water Street until Cathcart Street near Hula’s Island Grill. The trial court included an exception in the modified stay-away order permitting Mendonsa to be at the Santa Cruz Clock Tower on Saturdays and Sundays from 12:00 p.m. to 3:00 p.m.² Mendonsa was provided with a map depicting the stay-away zones.

Mendonsa timely appealed the October 2024 stay-away order.

II. DISCUSSION

Mendonsa challenges the October 2024 stay-away order on constitutional grounds.³ Mendonsa contends the order mandating that he avoid both sides of Pacific Avenue, starting North of the Santa Cruz Clock Tower until Cathcart Street (Pacific Avenue restriction), is unconstitutionally vague and overbroad. He also argues the portion of the order requiring him to stay away from City Hall violates his due process rights under the Fourteenth Amendment. We address these arguments in order.

“Generally, trial courts are given broad discretion in fashioning terms of probation in order to foster the reformation and rehabilitation of the offender while protecting public safety. [Citation.] Therefore, we review the imposition of a particular condition of probation for abuse of that discretion. ‘As with any exercise of discretion, the court

² There is no explanation in the record as to why the trial court included the exception.

³ Mendonsa does not challenge the validity of the probation condition under *People v. Lent* (1975) 15 Cal.3d 481. We therefore limit our discussion to Mendonsa’s constitutional challenges to the probation condition.

violates this standard when it imposes a condition of probation that is arbitrary, capricious or exceeds the bounds of reason under the circumstances. [Citation.]’ [Citation.]” (*People v. Arevalo* (2018) 19 Cal.App.5th 652, 656.) However, “[w]hether a term of probation is unconstitutionally vague or overbroad presents a question of law, which we review de novo. [Citations.]” (*People v. Stapleton* (2017) 9 Cal.App.5th 989, 993.)

A. *Pacific Avenue Restriction*

Mendonsa first claims the Pacific Avenue restriction should be stricken because it is unconstitutionally vague and overly broad.

1. *Void for Vagueness Challenge*

Mendonsa contends the Pacific Avenue restriction is unconstitutionally vague because the stay-away order does not provide adequate notice of the areas he must avoid or the conduct that would violate his probation. We disagree.

A probation condition may be unconstitutionally vague if it does not “give the probationer ‘fair warning’ of what is prohibited or required” to a reasonable degree of certainty. (*In re G.B.* (2018) 24 Cal.App.5th 464, 473.) The condition “‘must be sufficiently precise for the probationer to know what is required of him, and for the court to determine whether the condition has been violated’” (*In re Sheena K.* (2007) 40 Cal.4th 875, 890 (*Sheena K.*).) “[T]he relevant question is whether a person who *wants* to comply with the law can reasonably understand how to do so—not whether a person seeking to break the law can find some ambiguity in it.” (*People v. Holzmann* (2018) 18 Cal.App.5th 1241, 1245 (*Holzmann*).) “[A] probation condition should not be invalidated as unconstitutionally vague ‘‘if any reasonable and practical construction can be given to its language.’” [Citation.]” (*People v. Hall* (2017) 2 Cal.5th 494, 501 (*Hall*).)

Contrary to Mendonsa’s contention, the Pacific Avenue restriction in the stay-away order is sufficiently clear and provides Mendonsa with adequate notice. Here, the

trial court informed Mendonsa to stay away from both sides of Pacific Avenue starting from North of the Clock Tower and ending on Cathcart Street near Hula’s Island Grill. Additionally, Mendonsa was provided with a map that described and visually depicted the areas subject to the stay-away order. Although Mendonsa claims the order is vague because it fails to provide specific details regarding the extent of his contact with the businesses in the stay-away zone or whether he can travel through the area, the lack of such details here does not create sufficient ambiguity to establish constitutional vagueness. (*Hall, supra*, 2 Cal.5th at p. 503 [“the vagueness doctrine demands ‘ ‘no more than a reasonable degree of certainty’ ’ ”], citation omitted; *Holzmann, supra*, 18 Cal.App.5th at p. 1246 [“[m]erely because a condition could have been drafted with more precision does not make it unconstitutional”]; *People v. Lopez* (1998) 66 Cal.App.4th 615, 630 [“only reasonable specificity is required”].) The condition that Mendonsa stay away from a specific stretch of Pacific Avenue and City Hall is stated in ordinary language and is sufficiently clear and understandable for Mendonsa to comply with its requirements. Thus, we conclude that the Pacific Avenue restriction in the modified stay-away order is not void for vagueness.

2. *Overbreadth Challenge*

Mendonsa also argues the Pacific Avenue restriction is unconstitutionally overbroad because it infringes on his right to travel and is not reasonably related to his crimes. We agree with Mendonsa that the Pacific Avenue restriction is overbroad and must be stricken.⁴

⁴ This conclusion makes it unnecessary to address Mendonsa’s related claims that the challenged probation condition is overbroad because it is (1) equivalent to banishment since it excludes him from a significant portion of downtown and (2) redundant of another condition requiring him to obey all laws.

a. Legal Principles and Relevant Case Law

“The right of intrastate travel has been recognized as a basic human right protected by article I, sections 7 and 24 of the California Constitution. [Citation.]” (*Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1100 (*Tobe*).) “‘The right to travel locally through public spaces and roadways—perhaps more than any other right secured by substantive due process—is an everyday right, a right we depend on to carry out our daily life activities. It is, at its core, a right of function.’ [Citation.]” (*People v. Padilla-Martel* (2022) 78 Cal.App.5th 139, 155, fn. omitted.) “Although criminal offenders placed on probation retain their constitutional right to travel, reasonable and incidental restrictions on their movement are permissible.” (*People v. Moran* (2016) 1 Cal.5th 398, 406 (*Moran*).) “If a probation condition serves to rehabilitate and protect public safety, the condition may ‘impinge upon a constitutional right otherwise enjoyed by the probationer, who is “not entitled to the same degree of constitutional protection as other citizens.”’ [Citation.]” (*People v. O’Neil* (2008) 165 Cal.App.4th 1351, 1355.)

However, a probation condition that limits exercise of constitutional rights must “closely tailor those limitations to the purpose of the condition to avoid being invalidated as unconstitutionally overbroad.” (*Sheena K.*, *supra*, 40 Cal.4th at p. 890.) “A restriction is unconstitutionally overbroad . . . if it (1) ‘impinge[s] on constitutional rights,’ and (2) is not ‘tailored carefully and reasonably related to the compelling state interest in reformation and rehabilitation.’ [Citations.]” (*In re E.O.* (2010) 188 Cal.App.4th 1149, 1153 (*In re E.O.*.)) “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.” (*Ibid.*)

In *In re White* (1979) 97 Cal.App.3d 141 (*White*), the Court of Appeal struck a probation condition prohibiting the defendant from entering a mapped area, in part, because it was unconstitutionally overbroad. There, the defendant was placed on

probation for soliciting prostitution in Fresno. (*White*, at p. 143.) As a condition of her probation, the trial court prohibited the defendant from entering a portion of Fresno known for prostitution at “any time, day or night.” (*Ibid.*) On appeal, the *White* court held the probation condition was an unconstitutionally overbroad infringement on the defendant’s right to travel. (*Id.* at p. 148.) The court reasoned the condition was unreasonably broad because there was “no direct relationship between the commission of soliciting for prostitution and the exercise of the right to travel.” (*Id.* at p. 150.) The *White* court explained that “[i]f available alternative means exist which are less violative of the constitutional right and are narrowly drawn so as to correlate more closely with the purposes contemplated, those alternatives should be used.” (*Ibid.*) As such, the court remanded for the trial court to strike or narrow the challenged provisions. (*Id.* at pp. 151-152.)

Conversely, in *Moran, supra*, 1 Cal.5th 398, our Supreme Court held a probation condition banning the defendant from entering a commercial retail chain did not violate his constitutional right to travel. In *Moran*, the defendant pled no contest to second degree burglary for stealing an item from a Home Depot store in San Jose. (*Moran*, at p. 401.) As a condition of his probation, the defendant was ordered to not “‘go on the premises, parking lot adjacent or any store of Home Depot in the State of California.’” (*Ibid.*) The California Supreme Court rejected the defendant’s contention that the stay-away order was overbroad because it violated his constitutional right to travel. (*Id.* at pp. 406-407.) The Supreme Court reasoned “the restriction on [the defendant’s] movement imposed by the probation condition [was] too de minimis to implicate the constitutional travel right” since the condition did not “curtail[] his right to free movement in any meaningful way.” (*Id.* at p. 407.) The Supreme Court explained that the defendant was able to “freely move about his community, the city, and the State of California” without violating the challenged probation condition. (*Ibid.*) As the *Moran* Court aptly noted, the defendant remained “free to drive on any public freeway, street or

road, use public transportation, work (except in Home Depot stores), shop, visit the doctor's office, attend school, enjoy parks, libraries, museums, restaurants, bars, clubs, and movie theaters.” (*Ibid.*)

b. Analysis

As an initial matter, we note the record does not describe the purpose of the modified stay-away order. The prosecutor requested the modification after the trial court found Mendonsa violated a city ordinance precluding a person from laying down in a commercial or business district, but this conduct does not necessarily prompt public safety concerns nor is it readily evident how the modification would support Mendonsa’s rehabilitation.⁵ However, both the prosecutor and the Attorney General referenced Mendonsa’s past “disruptive and threatening behavior . . . [in] the downtown corridor” to support the expanded stay-away order. Since Mendonsa does not assert the probation condition was sought for an improper purpose,⁶ we will presume for purposes of our analysis that the amended stay-away order intended to address public safety concerns

⁵ We note that the instant probation violation raises complex public policy considerations concerning the effect of city ordinances on the constitutional rights of homeless people. While Mendonsa was ordered to obey all laws as a condition of his probation, here, he was seemingly arrested for conduct related to his status as an unhoused person. Nevertheless, we need not address these concerns since neither party raises any challenges to the validity of the Santa Cruz ordinance and, in any event, such matters are best left to the Legislature. (See e.g., *Tobe, supra*, 9 Cal.4th at p. 1092, fn. 12 [“The arguments of many amici curiae regarding the apparently intractable problem of homelessness and the impact of the Santa Ana ordinance on various groups of homeless persons . . . should be addressed to the Legislature and the Orange County Board of Supervisors, not the judiciary” since “[n]either the criminal justice system nor the judiciary is equipped to resolve chronic social problems”]; *People v. Diaz* (2018) 24 Cal.App.5th Supp. 1, 8 [“broader policy considerations should be addressed by the appropriate legislative bodies” as “our function is limited to judicial review of the validity of the ordinance being challenged”].)

⁶ Mendonsa argues the challenged probation condition is overbroad because it “effectively banishes” him from downtown Santa Cruz, but he does not claim the *purpose* of the condition was to banish him from Pacific Avenue.

related to Mendonsa’s alleged disorderly behavior in “the downtown corridor” and to support his rehabilitation by preventing such conduct.

Turning to the merits, we hold the Pacific Avenue restriction is unconstitutionally overbroad. First, the challenged portion of the probation condition implicates Mendonsa’s right to travel. Unlike *Moran* where the condition prohibited access to private commercial property, the condition in this case affects traditional public forums such as public streets and parks and encompasses an area that Mendonsa characterizes, without disagreement from the Attorney General, as “the primary business and cultural center of the city.” Additionally, as in *White* where the challenged probation condition affected the defendant’s right to travel because it prohibited a wide range of legitimate conduct, the Pacific Avenue restriction here affects innocent or otherwise non-criminal behavior in the prohibited zones. (See *People v. Padilla-Martel, supra*, 78 Cal.App.5th at p. 155 [“[T]he freedom to loiter for innocent purposes is part of the “liberty” protected by the Due Process Clause of the Fourteenth Amendment’ ”], quoting *City of Chicago v. Morales* (1999) 527 U.S. 41, 53.) Thus, the Pacific Avenue restriction affects Mendonsa’s right to travel.

Nonetheless, reasonable and incidental restrictions of a probationer’s movements are permissible so long as the probation condition is “ ‘tailored carefully *and* reasonably related to the compelling state interest in reformation and rehabilitation.’ [Citations.]” (*In re E.O., supra*, 188 Cal.App.4th at p. 1153, italics added.) Relying on *In re Antonio R.* (2000) 78 Cal.App.4th 937 (*Antonio R.*), the Attorney General contends the challenged condition is not an overbroad infringement on Mendonsa’s right to travel because far more extensive geographic restrictions have survived constitutional scrutiny. However, *Antonio R.* is distinguishable. There, the court held that a stay-away order prohibiting unaccompanied or unauthorized travel to Los Angeles County did not impermissibly infringe on the juvenile’s constitutional right to travel. (*Antonio R.*, at p. 942.) The *Antonio R.* court reasoned the restriction was reasonably related to the rehabilitative

purpose of probation since the juvenile was a member of a gang located in Los Angeles County and had previously committed several gang-related offenses there. (*Id.* at pp. 941-942.) Thus, in *Antonio R.*, the condition was not overbroad because it supported the juvenile's rehabilitation by impeding his participation in gang-related activity.

In contrast to *Antonio R.*, the Pacific Avenue restriction here impermissibly burdens Mendonsa's right to travel because it is not reasonably related to his crimes. (See *People v. Dominguez* (1967) 256 Cal.App.2d 623, 627 ["A condition of probation which (1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality does not serve the statutory ends of probation and is invalid"].) Whereas the stay-away order in *Antonio R.* was reasonably connected to the minor's conduct, here, the correlation between the Pacific Avenue restriction and Mendonsa's crimes is substantially weaker. At the October 25, 2024 probation violation hearing, the trial court found Mendonsa violated Santa Cruz Municipal Code by laying down on the sidewalk at 1520 Pacific Avenue. However, the modified stay-away order includes substantial portions of Pacific Avenue that have no connection to these incidents. Nor is the condition reasonably related to public safety concerns in connection with Mendonsa's initial plea for interfering with a city employee because that conduct took place in Scope Park, not on Pacific Avenue. The Attorney General relies on Mendonsa's past "disruptive and threatening behavior . . . [in] the downtown corridor" to justify the restriction but fails to explain how these prior incidents are related to the challenged conduct or the prohibited zones. It is also unclear from the record whether references to the "downtown corridor" refer to Pacific Avenue since the prosecution only generally referenced the incidents. Thus, the record does not support the conclusion that the Pacific Avenue condition is reasonably related to a compelling state interest in reformation or to the legitimate purpose of protecting public safety since keeping Mendonsa out of the mapped area would "have a minimal effect on future

criminal conduct except possibly in that particular area.” (*White, supra*, 97 Cal.App.3d at p. 147.)

Furthermore, the Pacific Avenue restriction is not closely tailored to Mendonsa’s reformation or to public safety concerns. (See *Sheena K., supra*, 40 Cal.4th at p. 890 [“A probation condition that imposes limitations on a person’s constitutional rights must closely tailor those limitations to the purpose of the condition to avoid being invalidated as unconstitutionally overbroad”]; *White, supra*, 97 Cal.App.3d at p. 150 [“If available alternative means exist which are less violative of the constitutional right and are narrowly drawn so as to correlate more closely with the purposes contemplated, those alternatives should be used”].) In *Moran*, the probation condition was closely tailored because it was limited to a single commercial retail chain that was specifically related to the defendant’s crime. Conversely, in *White*, the stay-away order was overly broad because it was not closely tailored to the defendant’s crime of solicitation and instead, criminalized the defendant’s mere presence in designated areas of Fresno. Here, unlike *Moran* and like *White*, the Pacific Avenue restriction is overly broad because it encompasses areas that are not specifically related to the challenged conduct based on the record evidence, and effectively bans Mendonsa from the designated geographical zone. Although the trial court provided an exception permitting Mendonsa to be at the clock tower on Saturdays and Sundays from 12:00 p.m. to 3:00 p.m., the stay-away order still prohibits Mendonsa’s mere presence on a substantial part of Pacific Avenue. A less restrictive alternative, such as a ban from a specific location on Pacific Avenue or during certain hours, could have achieved the same goal without burdening Mendonsa’s fundamental rights to the same degree. (See *People v. Nice* (2016) 247 Cal.App.4th 928, 951 [modifying the challenged probation condition to reduce “the likelihood of a possible violation based on lawful conduct comprising travel to and through public spaces enough to escape a claim of overbreadth”].) As such, we conclude that a closer fit could be

struck between the burden imposed by the Pacific Avenue restriction and the legitimate purpose of addressing public safety and facilitating Mendonsa’s rehabilitation.

We therefore hold that the portion of the stay-away order excluding Mendonsa from both sides of Pacific Avenue, starting North of the Santa Cruz Clock Tower until Cathcart Street, is unconstitutionally overbroad because it is not reasonably related to or closely tailored to the compelling state interest of Mendonsa’s reformation or public safety. The geographic reach of the condition is not justified on the record before us due to the lack of evidence and findings about the purpose of the condition and Mendonsa’s prior incidents that may have prompted the expanded stay-away order. Accordingly, we strike the Pacific Avenue restriction in the October 2024 stay-away order and remand for the trial court to impose a less restrictive alternative if it deems such order appropriate. Any such order should be supported by a thorough evidentiary justification. (See *White*, *supra*, 97 Cal.App.3d at p. 151 [“The municipal court should be given the opportunity, if it wishes to do so, after evidence presented, to narrow the specific conditions in question consistent with the views expressed herein”], fn. omitted.)

B. City Hall Ban

Mendonsa next contends that the trial court’s order that he stay away from City Hall is overbroad and violates his due process rights under the Fourteenth Amendment because it is not supported by substantial evidence.

“A narrow condition that achieves rehabilitation should be used in place of broad conditions that prevent otherwise lawful conduct and necessary activities. [Citation.]” (*People v. Perez* (2009) 176 Cal.App.4th 380, 384 (*Perez*).) “[E]ven where probation access restrictions are appropriate, ‘provision should be made to allow for lawful travel through the area of restriction *and for access to the area for legitimate purposes . . .*’ [Citations.]” (*Id.* at p. 386.)

We need not decide whether the trial court’s decision to impose the City Hall stay-away order is supported by substantial evidence because we strike the restriction on the

ground that it is unconstitutionally overbroad. After the second probation violation hearing, the trial court ordered Mendonsa to stay away from the city employee with whom he interfered as she cleaned City Hall. Such a restriction was closely tailored to serve the compelling interest of protecting the city employee from future interference with her custodial duties. By contrast, the trial court's subsequent modification at the October 2024 probation violation hearing banning Mendonsa from City Hall entirely is too sweeping. Government centers, like city halls, typically serve communities in the administration of justice and public services. The modified stay-away order bans Mendonsa from City Hall without permitting him access to the area for legitimate purposes. As such, we strike the portion of the October 2024 stay-away order directing Mendonsa to stay away from City Hall and remand to the trial court to "impose a narrower condition if it deems necessary." (*Perez, supra*, 176 Cal.App.4th at p. 386; see *In re E.O., supra*, 188 Cal.App.4th at p. 1157 [following *Perez* by striking the invalid probation condition and remanding for the trial court to "reconsider the necessity for, and thus the purpose of, the condition"].)

III. DISPOSITION

The October 25, 2024 stay-away order is stricken and the matter is remanded to the trial court to impose narrower conditions if it deems them appropriate. In all other respects, the judgment is affirmed.

Greenwood, P. J.

WE CONCUR:

Danner, J.

Bromberg, J.

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