

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

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

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

THE PEOPLE,

Plaintiff and Respondent,

v.

J.G.,

Defendant and Appellant.

A172792

(Contra Costa County
Super. Ct. No. J2400426)

J.G. was found to have committed assault with force likely to produce great bodily injury, evading the police, and carrying an unregistered, loaded handgun. The juvenile court committed him to the Briones Youth Academy – Commitment Pathway, placed him on probation, and imposed an electronics search probation condition. J.G. challenges the electronics search condition.

We conclude the electronics search condition as currently framed is invalid under *People v. Lent* (1975) 15 Cal.3d 481 (*Lent*) and *In re Ricardo P.* (2019) 7 Cal.5th 1113 (*Ricardo P.*). We therefore strike the condition and remand the matter to the juvenile court to consider the imposition of a modified electronics search condition in conformance with *Ricardo P.* and this opinion.

FACTUAL AND PROCEDURAL BACKGROUND

At approximately 4:05 a.m. on March 29, 2024, J.G., then 15 years old, was driving a vehicle with its lights off and no front license plate. Upon observing this, a Concord police officer turned on his overhead emergency lights and began following J.G.’s vehicle. J.G. sped up, made an abrupt turn into opposing traffic, and tried to evade the officer. A later examination of the vehicle indicated it was recently stolen.

A wardship petition was filed in Contra Costa County in August 2024. (Welf. & Inst. Code, § 602.¹) Count one alleged that J.G. evaded a police officer (Veh. Code, § 2800.1, subd. (a)); count two alleged that J.G. resisted, obstructed, or delayed a police officer (Pen. Code, § 148, subd. (a)(1)); and count three alleged that J.G. drove a vehicle without a valid driver’s license (Veh. Code, § 12500, subd. (a)).

Thereafter, on the afternoon of October 15, 2024, a youth (the “victim”) was leaving Berkeley High School when J.G. began to follow him. J.G. asked the victim where he was from and where he “claimed,” which is another way of asking about the victim’s gang affiliation. The victim responded he was a football player and was not part of a gang, and he began to walk away while rebuffing J.G.’s further attempts to engage him. As the victim walked away, J.G. ran up to the victim and struck him on the head with a Glock pistol. The victim fled, losing one of his shoes in the process, while J.G. continued to taunt him. When the victim looked back, he saw J.G. pick up his shoe and run off.

The victim’s parent reported the assault, and a Berkeley police officer was dispatched to the scene. While the officer was interviewing the victim,

¹ Undesignated statutory references are to the Welfare and Institutions Code.

the victim received a friend's Instagram message that forwarded a posting by a “‘@lluljay’” account. The “‘@lluljay’” account posted two pictures: one of a hand holding the victim's shoe along with the text “‘@800gzz why u run bitch,’” and a second text stating, “‘Yall want the vid?’” with a poll allowing viewers to vote “‘yes’” or “‘no.’” The victim stated his Instagram account was “‘@800gzz’” but he did not know the person behind the “‘@lluljay’” account.

Three days later, J.G.'s mother called the police to turn her son in. The mother reported that J.G. told her he had a feud with the victim due to a breakup between the victim and a friend, and that the feud “continued solely online.” She also said J.G. told her that the victim had instigated the fight, and that J.G. had used a pistol to defend himself. The mother indicated J.G. had been “going down the ‘wrong path,’” and she wanted him to be taken into custody so he would not be harmed in an unpredictable encounter with the police. J.G. was taken into custody later that evening.

A wardship petition stemming from this incident was filed in Alameda County in October 2024. (§ 602.) Count one alleged that J.G. committed assault with a firearm (Pen. Code, § 245, subd. (a)(2)); count two alleged that J.G. possessed a gun on school grounds (Pen. Code, § 626.10, subd. (a)(1)); and count three alleged that J.G. possessed a firearm as a minor (Pen. Code, § 29610).

In November 2024, J.G. admitted to an amended count of assault with force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4)) relative to the October 2024 Alameda County petition, and the juvenile court dismissed the remaining allegations. J.G. was released from the Alameda County Juvenile Hall and placed on the Alameda County Global Positioning System Program. Two weeks later, the Alameda County petition was

transferred to Contra Costa County for disposition, as it was determined that Contra Costa County was the county of J.G.'s residence.

In January 2025, J.G. pled no contest to evading a police officer relative to the August 2024 Contra Costa County petition. A disposition hearing was set for February 20, 2025. However, on February 6, J.G. got into a fistfight with a student he had been bullying at Pittsburg High School. Before the fight, the student saw J.G. take a firearm from his pants pocket and hand it to a friend. After the fight was broken up, the Pittsburg police were contacted. When an officer arrived, he searched J.G.'s backpack and found a Glock pistol. J.G. was then arrested for several weapon-related offenses and placed in juvenile hall.

In February 2025, a supplemental wardship petition was filed in Contra Costa County (§ 602), alleging that J.G. possessed a firearm on school grounds (Pen. Code, § 626.9, subd. (b)); that he carried an unregistered, loaded handgun (Pen. Code, § 25850, subd. (a)/(c)(6)); and that he concealed an unregistered firearm on his person (Pen. Code, § 25400, subd. (a)(2)/(c)(6)).

In February 2025, J.G. pled no contest to the offense of carrying an unregistered, loaded handgun, and the remaining allegations were dismissed. The juvenile court also denied J.G.'s request to be released from juvenile hall on home supervision.

In March 2025, the juvenile court held a disposition hearing on the August 2024 and February 2025 Contra Costa County petitions and the October 2024 Alameda County petition. At this point, the probation department requested the imposition of an electronics search condition because it appeared J.G. had an ongoing online feud with the Berkeley High School victim, had recorded his assault of the victim, and had asked others online if they wanted to see the video. J.G.'s counsel objected, arguing that

J.G. did not use electronic devices to commit any of his offenses and there was no evidence that J.G. was the individual who recorded the video or sent the Instagram message to the victim. J.G.’s counsel further stated his objection was based on *Lent, supra*, 15 Cal.3d 481 and *Ricardo P., supra*, 7 Cal.5th 1113.

The juvenile court adjudged J.G. a ward of the court and committed him to the Briones Youth Academy — Commitment Pathway for a maximum term of four years or until age 23, whichever comes first. The court also imposed an electronics search condition on the basis J.G. had recorded his assault of the Berkeley High School victim and subsequently taunted the victim with that recording online. Specifically, the court highlighted the portion of the disposition report stating there was an Instagram post shortly after the incident which tagged the victim, posted a picture of a hand holding the victim’s shoe along with the question “Y you run, bitch?”, and asked whether viewers wanted to see the video. The court believed this information indicated that J.G. was the author of the post.

The juvenile court imposed the following electronics search condition: “Submit your cell phone and any other electronic device under your control to a search of any medium of communication reasonably likely to reveal whether you are complying with the terms of your probation, with or without a search warrant, at any time of the day or night. Such medium of communication includes text messages, voicemail messages, call logs, photographs, email accounts and other social media accounts and applications such as Snapchat, Instagram, Facebook and Kik. You shall provide access codes to the Probation Officer or any other peace officer upon request to effectuate such search.” The court stated the condition was “narrowly tailored and important for [J.G.’s] rehabilitation efforts.” The

court additionally prohibited J.G. from contacting the Berkeley High School victim.

DISCUSSION

J.G. challenges the juvenile court’s imposition of the electronics search probation condition, arguing that the condition is unreasonable under *Lent, supra*, 15 Cal.3d 481 and *Ricardo P., supra*, 7 Cal.5th 1113. He also asserts the condition is unconstitutionally overbroad.

A juvenile court is authorized to impose any reasonable conditions that it may determine “fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.” (§ 730, subd. (b).) Notably, “[t]he permissible scope of discretion in formulating terms of juvenile probation is even greater than that allowed for adults,” given that “juveniles are deemed to be ‘more in need of guidance and supervision than adults’” and that the state “‘stands in the shoes of the parents . . . in caring for the minor’s well being’” when it asserts jurisdiction over the minor. (*In re Victor L.* (2010) 182 Cal.App.4th 902, 909–910.)

This broad discretion, however, is not unlimited. (*In re J.B.* (2015) 242 Cal.App.4th 749, 754.) A probation condition is invalid if it ““(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.’” (*Lent, supra*, 15 Cal.3d at p. 486.) The *Lent* test is “conjunctive—all three prongs must be satisfied before a reviewing court will invalidate a probation term.” (*People v. Olguin* (2008) 45 Cal.4th 375, 379.) As the Supreme Court has explained, a condition of probation that “requires or forbids conduct which is not itself criminal is valid if that conduct is reasonably related to the crime of which the defendant was convicted or to future criminality.” (*Lent*, at p. 486.) We

review the imposition of a probation condition for an abuse of discretion (*ibid.*), taking into account “‘the sentencing court’s stated purpose in imposing it’” (*In re P.O.* (2016) 246 Cal.App.4th 288, 294).

J.G. contends all three prongs of the *Lent* test have been satisfied, while the People argue the first and third prongs have not been met. For the reasons below, we conclude the trial court abused its discretion in imposing the electronics search condition because, as framed, the condition is invalid under *Lent*.

As indicated, there appears no dispute the second prong of the *Lent* test has been met. And for good reason: it is well-established that there is nothing inherently illegal about using electronic devices. (*In re Amber K.* (2020) 45 Cal.App.5th 559, 566 (*Amber K.*)).

Turning to the first prong of the *Lent* test, the question is whether J.G.’s use of an electronic device bore a relationship to his assault of the Berkeley High School victim with force likely to produce great bodily injury.² In evaluating the relationship between a probation condition and the offense for which a probationer has been convicted, we observe that *Lent* does not explain what it means for a probation condition to “relate” to an offense. (See *Lent, supra*, 15 Cal.3d at p. 486.) Nor does there appear to be a standard means by which it can be determined if such a relationship exists.

In the context of electronics search probation conditions, some Courts of Appeal have found that use of an electronic device is related to an offense when the device was used to commit, plan, or facilitate that offense. (See, e.g., *People v. Appleton* (2016) 245 Cal.App.4th 717, 719–720, 724 [electronic device was involved in the offense where defendant met his victim through

² The People do not dispute that the electronics search condition is unrelated to J.G.’s commission of the other two offenses, i.e. evading a police officer and carrying an unregistered, loaded handgun.

social media]; *People v. Castellanos* (2020) 51 Cal.App.5th 267, 270, 271, 275–276 [electronic devices involved in transportation of controlled substances where defendant had three cell phones in his car at the time of arrest and cell phones are frequently used in drug sales].) In this case there was no indication that J.G. used an electronic device to commit, plan, or facilitate his assault of the victim.

Other Courts of Appeal have found that electronic devices were *not* related to an offense when the connection between electronic device usage and an offense was more tangential. (See, e.g., *In re Alonzo M.* (2019) 40 Cal.App.5th 156, 164 (*Alonzo M.*); *Amber K.*, *supra*, 45 Cal.App.5th at pp. 564–566.) For example, in *Alonzo M.*, the mere fact that electronic devices were stolen during the minor’s commission of automobile burglaries and purse snatch robberies did not compel the conclusion that electronic devices related to these offenses. (See *Alonzo M.*, at pp. 158, 159, 164 [observing the condition could not be upheld under either of first two *Lent* prongs].) Similarly, in *Amber K.*, the minor’s use of social media before and after a school fight was found to be insufficient to satisfy the first prong of *Lent*. (*Amber K.*, at pp. 565–566.)

Amber K. is instructive because of its comparable facts. Both J.G. and Amber were found to have committed assault by force likely to produce great bodily injury. (See *Amber K.*, *supra*, 45 Cal.App.5th at p. 561.) Just as J.G. engaged in an online feud with the Berkeley High School victim before his assault, Amber feuded online and offline with her victim before their fistfight. (See *id.* at p. 562.) And both cases involved social media postings about the assaults after they occurred. (See *id.* at p. 563.)³ In *Amber K.*, neither the

³ We acknowledge the social media postings in this case specifically identified and taunted the victim, while the postings in *Amber K.* did not.

online feuding nor the post-assault social media postings were found sufficient to establish a relationship between electronic devices and the subject offenses. (*Amber K.*, *supra*, 45 Cal.App.4th at pp. 565–566.) The facts in this case warrant the same conclusion.

The third prong of *Lent* requires that we assess whether the electronics search condition requires or forbids conduct that is not reasonably related to future criminality. We are guided by the principles outlined in *Ricardo P.*, *supra*, 7 Cal.5th 1113.

In *Ricardo P.*, the California Supreme Court explained the third prong of *Lent* “contemplates a degree of proportionality between the burden imposed by a probation condition and the legitimate interests served by the condition.” (*Ricardo P.*, *supra*, 7 Cal.5th at p. 1122.) An “abstract or hypothetical relationship between the probation condition and preventing future criminality” is insufficient. (*Id.* at p. 1121.) In *Ricardo P.*, the juvenile court imposed an electronics search condition similar to the one here based on its belief that the minor was using marijuana when committing his two felony burglary offenses, and that minors generally would brag about drug or marijuana usage online. (*Id.* at pp. 1116–1117.) But the high court saw nothing in the record indicating the minor had ever used an electronic device or social media in connection with criminal conduct. (*Id.* at p. 1122.) The high court acknowledged that an electronics search condition could be appropriate where the “probationer’s offense or personal history” provided a sufficient factual basis to determine that such a condition would be a

(See *Amber K.*, *supra*, 45 Cal.App.5th at p. 563.) At the same time, we note that Amber did not dispute that the postings were hers (see *ibid.*, fn. 3), whereas here, J.G. argues there were no facts indicating he was the holder of the “@lluljay” account that posted about the assault and it is debatable whether the record contains substantial evidence on the point.

proportional means to deterring future criminality. Nonetheless, the high court concluded, based on the record before it, that the burden imposed on Ricardo's privacy was "substantially disproportionate to the countervailing interests of furthering his rehabilitation and protecting society." (*Id.* at p. 1119; see *id.* at pp. 1120, 1128–1129.)

In *Alonzo M.*, the court synthesized the principles outlined by *Ricardo P.* for determining whether a probation condition satisfies the third prong in *Lent*. As *Alonzo M.* explained, a condition can survive only when there is "information in the record establishing a connection between the search condition and the probationer's criminal conduct or personal history" and when the burden imposed by the condition is proportionate to the legitimate interests served by that condition. (*Alonzo M., supra*, 40 Cal.App.5th at p. 166.) In that case, the record included evidence that the minor spent a significant amount of time using electronic devices, that he had his cell phone with him during his crime spree and had stolen electronic devices in the vehicle he was arrested in, that he was susceptible to negative social influences, and that he responded effectively to the restriction of his electronic devices as a disciplinary measure. (*Id.* at pp. 166–167.) Given those circumstances, the court determined it would not be an abuse of discretion for the juvenile court to conclude that a "properly drawn electronic search condition would help to ensure that [the minor] d[id] not again succumb to the negative influences he blame[d] for the criminal behavior that led to th[e] wardship." (*Id.* at p. 166.)

Nonetheless, the *Alonzo M.* court relied on *Ricardo P.* in concluding the electronics search condition imposed by the juvenile court "used language too broad to survive scrutiny." (*Alonzo M., supra*, 40 Cal.App.5th at p. 167.) The court began by observing the juvenile court articulated a legitimate,

rehabilitative purpose of the electronics search condition, which was to address the minor's susceptibility to negative social influences, including two co-responsibles for whom a stay-away order was imposed. (*Ibid.*) But the court found it significant that the condition was not limited to monitoring the company the minor kept and that instead it authorized the “‘search of any medium of communication reasonably likely to reveal whether [the minor was] complying with the terms of [his] probation’” including requirements that he abstain from using drugs or alcohol. (*Ibid.*) Following *Ricardo P.*, the court concluded that a search clause of such magnitude was impermissible given that “the record disclose[d] no connection between the probationer’s use of electronics and his drug use or other criminality.” (*Ibid.*) Because the search term was not reasonably related to future criminality and needed to be limited, the court remanded the matter so the juvenile court could consider imposing an electronics search condition that was “more narrowly tailored to allowing search of any medium of communication reasonably likely to reveal whether [the minor was] associating with prohibited persons.” (*Id.* at p. 168.)

In our view, the logic of *Ricardo P.* and *Alonzo M.* supports, if not compels, the same resolution here. As in *Alonzo M.*, the search condition at issue broadly requires that J.G. submit his cell phone and other electronic devices to warrantless searches of “any medium of communication reasonably likely to reveal whether [he is] complying with the terms of [his] probation.” But in contrast to the evidence of extensive use of electronic devices in *Alonzo M.*, the only record evidence of J.G.’s use of electronic devices was his mother’s statement that he engaged in an online feud with the Berkeley High School victim; there was also the possibility that he may have posted about the assault on social media after it occurred. And unlike the stated purpose for the condition in *Alonzo M.* (i.e., to shield the minor from negative social

influences), here, the juvenile court offered no justification for the breadth of the condition apart from seeing a “clear association” between the assault count and J.G.’s social media taunting of the victim, and believing the condition was “reasonably likely to reveal” whether J.G. was “complying with the terms of [his] probation.” Following *Ricardo P.* and *Alonzo M.*, we conclude the broad-ranging electronics search condition burdens J.G.’s privacy “in a manner substantially disproportionate to the probation department’s legitimate interest in monitoring” his compliance with his probation terms, including the order to stay away from the Berkeley High School victim. (*Alonzo M.*, *supra*, 40 Cal.App.5th at p. 168.) Indeed, even assuming that an electronics search condition might be appropriately fashioned to monitor J.G.’s activities so as to promote his rehabilitation and prevent future criminality, it appears entirely unclear why the condition must be as broad as it currently is in order to reasonably do so.

The People cite *Amber K.*, *supra*, 45 Cal.App.5th 559 for the proposition that an electronics search condition does not constitute an abuse of discretion if the condition is tailored to ensure the minor’s compliance with a probation condition prohibiting contact with the victim. We have no quarrel with that general proposition, but *Amber K.* does not advance the People’s position. In *Amber K.*, the juvenile court imposed a nearly identical electronics search condition to ensure Amber was abiding by the terms of her probation, including a condition that she not contact the victim. (*Amber K.*, *supra*, 45 Cal.App.5th at p. 563). As in *Alonzo M.*, the *Amber K.* court struck the electronics search condition as overly broad because it was “not limited to the term that Amber have no contact with [the victim]” but went further “by authorizing electronic searches for the broader purpose of insuring that Amber was complying with all the probation conditions.” (*Id.* at p. 567.) The

People do not explain why the search condition in this case should pass muster when the condition in *Amber K.* did not.

The People also claim the electronics search condition would “reasonably allow law enforcement to search [J.G.’s] electronics for evidence of his crimes, for instance, photos such as those he posted after his offense.” This argument, however, lacks merit as it appears to be focused not on deterring *future* criminality but on discovering evidence of *past* criminality. And in any event, we cannot stretch the third prong of the *Lent* test to allow just “‘any probation condition that enhances surveillance of the probationer.’” (*Ricardo P.*, *supra*, 7 Cal.5th at p. 1125.)

Accordingly, we strike the electronics search condition and remand the case to the juvenile court to consider the imposition of a revised condition consistent with this opinion. (See *Amber K.*, *supra*, 45 Cal.App.5th at p. 568.) Further, because we conclude the electronics search condition must be stricken under *Lent* and *Ricardo P.*, we do not reach J.G.’s additional claim that the condition is unconstitutionally overbroad. (See *Amber K.*, *supra*, 45 Cal.App.5th at p. 564 [finding it unnecessary to address separate contention electronics search condition was unconstitutionally overbroad in light of its conclusion that condition was invalid under *Lent* and *Ricardo P.*]; *Alonzo M.*, *supra*, 40 Cal.App.5th at p. 168, fn. 2 [same].)

DISPOSITION

The electronics search condition is stricken. The matter is remanded to the juvenile court to consider the imposition of a revised condition consistent with this opinion. The disposition order is otherwise affirmed.

Fujisaki, J.

WE CONCUR:

Tucher, P. J.

Rodríguez, J.

In re: J.G. (A172792)