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

In re LATRICE M., a Person Coming
Under the Juvenile Court Law.

THE PEOPLE,
Plaintiff and Respondent,

v.

LATRICE M.,
Defendant and Appellant.

A105862

(Solano County
Super. Ct. No. J30759)

Latrice M., a 17-year-old minor, appeals from an order of the juvenile court continuing her on probation and sentencing her to five weekends in juvenile hall at the discretion of the probation officer. We direct the juvenile court to modify its order by striking the portion sentencing Latrice to five weekends in juvenile hall, and affirm the order as modified.

BACKGROUND

On December 19, 2003, the Solano County Probation Department filed a “notice of violation of probation/wardship” alleging Latrice, who was already a ward of the court, had violated her probation by 1) being truant from school on seven days in October and November 2003; 2) failing to take weekly drug tests; 3) testing positive for marijuana on September 25, 2003; and 4) failing to attend three weekends at New Foundations in November and December 2003. On January 21, 2004, Latrice admitted the first three

probation violations in their entirety. With respect to the fourth violation, she admitted missing only one of the New Foundations weekends; the allegations regarding the other two weekends were dismissed.

At the dispositional hearing on February 4, 2004, the juvenile court continued Latrice as a ward, continued her on probation, and placed Latrice in her mother's custody. The court granted probation under the following terms: first, the court set the maximum period of confinement at six years and two months; second, the court committed Latrice to juvenile hall for 25 days and awarded her credit for 25 days in custody, with a total credit for wardship of 580 days. The court also imposed numerous probation conditions, including five weekends at juvenile hall at the discretion of the probation officer.

The court imposed the five discretionary weekends at the People's request based on "the minor's performance so far on probation." Latrice's counsel objected to the five weekends on the grounds such an order would improperly delegate a judicial function to the probation officer by allowing him or her to decide unilaterally whether Latrice had violated her probation, and would violate Latrice's due process rights to a detention hearing.

On February 17, 2004, Latrice filed a timely notice of appeal from the February 4, 2004 dispositional order.

DISCUSSION

The sole issue on appeal is the legality of the probation condition committing Latrice to juvenile hall for five weekends at the discretion of the probation officer. We review this question of law de novo. (*People v. Cromer* (2001) 24 Cal.4th 889, 894.) We conclude this probation condition was improper.

A juvenile court has broad discretion to select appropriate probation conditions. (*In re Antonio C.* (2000) 83 Cal.App.4th 1029, 1033; see also Welf. & Inst. Code, § 730, subd. (b) [court may impose "any and all 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”].) Similarly, “[p]robation officers have wide discretion to enforce court-ordered conditions, and directives to the probationer will not require prior court approval if they are reasonably related to previously imposed terms.” (*In re Pedro Q.* (1989) 209 Cal.App.3d 1368, 1373 (*Pedro Q.*)). Consistent with this discretion, as a condition of probation, the juvenile court can order a minor to spend a range of time in juvenile hall, leaving the precise term of actual confinement to the probation officer’s discretion. (*In re Ricardo M.* (1975) 52 Cal.App.3d 744, 746-747, 752 (*Ricardo M.*) [concluding the juvenile court was empowered to impose probation condition of not less than 5 nor more than 20 days in juvenile hall, the exact amount of time to be determined by probation officer based on minor’s “attitude and cooperation”]; see also *In re Demetrus H.* (1981) 118 Cal.App.3d 805, 806-807 [minor placed on home probation with condition he spend not less than 5 and no more than 10 days “*Ricardo M.* time” in juvenile hall]; *In re Trevor W.* (2001) 88 Cal.App.4th 833, 837 (*Trevor W.*) [listing decisions imposing juvenile hall time as a condition of probation based on *Ricardo M.*].) The juvenile court can impose such a range of confinement because while the minor is confined in juvenile hall, he or she is under the discretionary management of the probation officer. (*Ricardo M., supra*, 52 Cal.App.3d at p. 752.)

However, Latrice correctly points out that the court’s order in this case improperly “required the probation officer to perform judicial functions: to determine whether the minor has committed new misconduct and to determine whether the misconduct warrants additional loss of liberty.” The order left to the probation officer’s discretion whether she would be sent to juvenile hall at all based on her conduct while outside of juvenile hall. The problem with this order is that it allows the probation officer to alter Latrice’s disposition unilaterally based on the officer’s determination that her conduct while on probation warrants it, and not based on her conduct while she is confined in juvenile hall and under the officer’s discretionary management. (Cf. *Ricardo M., supra*, 52 Cal.App.3d at p. 752.) Thus, the order violates the statutory notice and hearing required before imposing confinement based on an alleged violation of the February 4, 2004 dispositional order. (Welf. & Inst. Code, § 777 [“An order changing or modifying a

previous order by removing a minor from the physical custody of a parent . . . shall be made only after a noticed hearing”]; see also *In re Gerald B.* (1980) 105 Cal.App.3d 119, 126-127 [holding probation condition imposing juvenile hall confinement in the event of one or more unexcused school absences which would be self-executing without further hearing was improper].) The notice and hearing procedures of section 777 are necessary to satisfy constitutional due process. (*In re Eddie M.* (2003) 31 Cal.4th 480, 504-508[.]

DISPOSITION

The juvenile court is directed to modify its February 4, 2004 dispositional order to strike that portion requiring Latrice “be committed to Juvenile Hall for 5 weekends at P.O.’s discretion.” As so modified, the order is affirmed.

Parrilli, J.

We concur:

Corrigan, Acting P. J.

Pollak, J.

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