

CALIFORNIA COURT OF APPEAL, THIRD APPELLATE DISTRICT

People v. Nixon

People v. Nixon · No. C101167 · Decided June 5, 2025

SUMMARY

The California Court of Appeal affirmed a judgment involving a postrelease supervision condition that prohibited the defendant from creating, using, or accessing social media websites. The court held that the condition was sufficiently precise to satisfy constitutional vagueness standards and was not overbroad because it was closely related to the defendant’s use of social media to make criminal threats. Although the defendant had been discharged from supervision, the court addressed the merits because the issue was likely to recur while evading review.

CASE DETAILS

COURT	California Court of Appeal, Third Appellate District
WRITING FOR THE COURT	Mauro, Acting Presiding Justice; Duarte, Justice; Krause, Justice
JURISDICTION	California Court of Appeal, Third Appellate District
DECIDED	June 5, 2025
DOCKET	C101167
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment imposing a postrelease supervision condition prohibiting him from creating, using, or accessing social media accounts and websites. Although defendant was discharged from postrelease supervision while the appeal was pending, the Court of Appeal exercised its discretion to decide the technically moot constitutional challenge.
STANDARD OF REVIEW	The court independently reviewed defendant's constitutional vagueness and overbreadth challenges to the social-media condition.
PRECEDENTIAL VALUE	Published and certified for publication
PARTIES	Brandon Andre Keith Nixon v. The People

TOPICS

- appellate procedure
- criminal procedure
- first amendment
- overbreadth doctrine
- void for vagueness

PRACTICE AREAS

criminal procedure

constitutional law

appellate procedure

postrelease supervision

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed as moot after defendant's discharge from postrelease supervision.
2. Whether the social-media condition was unconstitutionally vague because its definition did not sufficiently identify the websites defendant could not use or access.
3. Whether the social-media condition was unconstitutionally overbroad because it burdened First Amendment rights without being carefully tailored to the state's interest in reformation and rehabilitation.

HOLDINGS

1. The court may exercise its discretion to decide a technically moot appeal when the challenged issue is of broad continuing public interest, likely to recur, and likely to evade review; the court therefore declined to dismiss the appeal.
2. The condition defining social media as any internet website allowing users to post words or images accessible to the public or other users was sufficiently precise to notify defendant of the prohibited conduct and to permit a court to determine whether the condition had been violated.
3. The complete prohibition on defendant's creation, use, and access of social-media accounts and websites was not unconstitutionally overbroad because, although it burdened First Amendment rights, it was closely fitted and reasonably necessary to the state's compelling interest in reforming and rehabilitating defendant.

KEY QUOTATIONS

"A restriction is unconstitutionally vague if it is not 'sufficiently precise for the probationer to know what is required of him, and for the court to determine whether the condition has been violated.' " (at 4)

"A restriction failing this test does not give adequate notice . . . of the conduct proscribed." (at 4)

"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." (at 4)

"Under these circumstances, where defendant used social media to perpetrate the crime for which he is on probation, gathered information on the victim and her family through social media, had inappropriate contacts with the victim's friends through social media, and continued to use social media to discuss this case even after conviction, it is appropriate and constitutionally sound to impose such a complete prohibition." (at 6)

FACTUAL BACKGROUND

Defendant used Facebook to post a photograph of three Elk Grove police officers with crosshairs over two officers' faces, accompanied by threats that the officers and their family members be killed. The prosecution also presented numerous other harassing and threatening social-media posts dating back to 2017. Because social media was the instrumentality of the criminal threat and other misconduct, the trial court imposed a condition barring defendant from creating, using, or accessing social-media accounts and websites during postrelease supervision.

PROCEDURAL HISTORY

Defendant pleaded no contest in 2018 to firearm, perjury, and ammunition offenses and received a split sentence including mandatory supervision. While on supervision, he was convicted by a jury of making a criminal threat through a Facebook post; the trial court imposed an aggregate prison sentence and later resentenced him after an appellate remand. Upon release to postrelease supervision, the court imposed a social-media prohibition, later modifying it to remove an electronic-device restriction. The trial court denied defendant's constitutional challenge to the modified condition, and the Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Arroyo (2019) 37 Cal.App.5th 727, 730, fn. 2
- People v. Johnson (2018) 29 Cal.App.5th 1041, 1045
- People v. DeLeon (2017) 3 Cal.5th 640, 645-646
- People v. Nixon (Sept. 30, 2022, C094767) [nonpub. opn.]
- People v. Nixon (Mar. 27, 2023, C094488) [nonpub. opn.]
- In re E.O. (2010) 188 Cal.App.4th 1149, 1153
- In re Sheena K. (2007) 40 Cal.4th 875, 890
- People v. Prowell (2020) 48 Cal.App.5th 1094, 1098-1101
- Packingham v. North Carolina (2017) 582 U.S. 98, 104
- In re L.O. (2018) 27 Cal.App.5th 706, 708, 711-713

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