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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

THE PEOPLE,

Petitioner,

v.

THE SUPERIOR COURT OF STANISLAUS  
COUNTY,

Respondent;

G.G.,

Real Party in Interest.

F079007

(Super. Ct. No. 514524)

**OPINION**

ORIGINAL PROCEEDINGS; petition for writ of mandate. Rubén A. Villalobos,  
Judge.

Birgit Fladager, District Attorney, and Jon Appleby, Deputy District Attorney, for  
Petitioner.

No appearance for Respondent.

Perry & Associates, Michael D. Scheid and Martin Baker for Real Party in  
Interest.

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**SEE DISSENTING OPINION**

Effective November 9, 2016, Proposition 57, the Public Safety and Rehabilitation Act of 2016 (Proposition 57 or the Act), eliminated a prosecutor’s ability to directly file charges in criminal (adult) court against minors who were 14 years of age or older at the time of their alleged offenses, and instead required prosecutors to obtain juvenile court approval before prosecuting minors in criminal court.<sup>1</sup> Subsequently, the Legislature enacted Senate Bill No. 1391 (2017-2018 Reg. Sess.) (Stats. 2018, ch. 1012, § 1) (Senate Bill No. 1391). That legislation, which took effect on January 1, 2019, prohibits the transfer of 14- and 15-year-old offenders to criminal court in virtually all circumstances.

This case concerns the validity of Senate Bill No. 1391. The District Attorney of Stanislaus County (the District Attorney) asks us to hold it is invalid, and issue a writ of mandate directing the juvenile court to vacate its order functionally dismissing the District Attorney’s motion to transfer real party in interest G.G. (G.G.) to criminal court. Because we conclude Senate Bill No. 1391 is valid, we deny the petition for writ of mandate.

### **PROCEDURAL HISTORY**

On December 28, 2017, the District Attorney filed a second amended juvenile wardship petition (§ 602), alleging G.G. committed murder during the commission of a robbery (Pen. Code, §§ 187, subd. (a), 190.2, subd. (a)(17)(A); count I), assault with a

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<sup>1</sup> “The juvenile court and the criminal court are divisions of the superior court, which has subject matter jurisdiction over criminal matters and civil matters, including juvenile proceedings. (See Cal. Const., art. VI, § 10.) When exercising the jurisdiction conferred by the juvenile court law, the superior court is designated as the juvenile court. (Welf. & Inst. Code, § 245.)” (*Manduley v. Superior Court* (2002) 27 Cal.4th 537, 548, fn. 3.) Accordingly, when we refer to the juvenile court or the criminal (adult) court, we are referring to the statutory authority of the particular division of the superior court, in a given case, to proceed under the juvenile court law or the law generally applicable in criminal actions. (See *In re Harris* (1993) 5 Cal.4th 813, 837.)

Further statutory references are to the Welfare and Institutions Code unless otherwise stated.

deadly weapon (*id.*, § 245, subd. (a)(1); count II), robbery (*id.*, § 211; counts III-VII), and conspiracy to commit robbery (*id.*, § 182, subd. (a)(1); count VIII).<sup>2</sup> G.G. was 15 years old at the time of the offenses alleged in counts I through VI, and 14 years old at the time of the offenses alleged in counts VII and VIII.

The District Attorney moved to transfer G.G. to criminal court. While the motion was pending, Senate Bill No. 1391 went into effect. G.G. then moved to vacate the transfer hearing on the ground that given his age at the time he was alleged to have committed the offenses, and the fact he was apprehended prior to the end of juvenile court jurisdiction, the court lacked jurisdiction to transfer him to a court of criminal jurisdiction. The District Attorney opposed the motion to vacate the hearing, arguing Senate Bill No. 1391 unlawfully amended Proposition 57. G.G. responded by arguing Senate Bill No. 1391 was valid.

On February 13, 2019, the juvenile court held a hearing on the matter. After argument, the court found Senate Bill No. 1391 to be constitutional. It subsequently issued a written, more detailed ruling in which it concluded the District Attorney failed to show an impermissible conflict between Proposition 57 and Senate Bill No. 1391, and to overcome the strong presumption Senate Bill No. 1391 is constitutional.

The District Attorney petitioned this court for a writ of mandate, arguing, for many of the same reasons presented below, that Senate Bill No. 1391 constitutes an unconstitutional amendment of Proposition 57, and that the lower court acted in excess of its jurisdiction in not holding a transfer hearing and effectively dismissing the District Attorney's motion to transfer G.G. to criminal court. We stayed the juvenile court proceedings and issued an order to show cause.

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<sup>2</sup> The second amended petition has not been provided to us; however, the charges are set out in the probation officer's transfer hearing report.

## DISCUSSION

The District Attorney contends Senate Bill No. 1391 unconstitutionally amended Proposition 57, and so is invalid. Her overall claim is that the legislation is inconsistent with the Act and does not further its intent. She finds it “significant” that the original version of Proposition 57 established 16 years old as the minimum age at which juveniles could be transferred to criminal court, but this provision was eliminated from the version submitted to voters. She argues that *People v. Superior Court (Lara)* (2018) 4 Cal.5th 299, on which the juvenile court relied in part, is distinguishable from the present case because the issue there was the retroactivity of Proposition 57. Finally, she asserts that if Senate Bill No. 1391 is upheld, the Legislature ultimately could prohibit the transfer of any and all juveniles to adult court.

Recently, we rejected these arguments. (*People v. Superior Court (T.D.)* (2019) 38 Cal.App.5th 360, 372-375 [intent and purpose]; *id.* at pp. 376-377 [drafting history]; *id.* at pp. 377-378 [legislative nullification], petn. for review pending, petn. filed Sept. 13, 2019.) We see no reason to revisit our analyses and conclusions. Senate Bill No. 1391 constitutionally amended Proposition 57.

## DISPOSITION

The order to show cause previously issued is discharged, and the petition for writ of mandate is denied. The stay issued by this court on April 8, 2019, shall remain in effect only until this opinion becomes final in all courts in this state or the California Supreme Court grants a hearing, whichever shall first occur; thereafter said order is vacated and said stay is dissolved.

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DETJEN, J.

I CONCUR:

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PEÑA, J.

Poochigian, Acting P.J., dissenting.

I respectfully dissent for the reasons set forth in my dissenting opinion in *People v. Superior Court (T.D.)* (2019) 38 Cal.App.5th 360, 378–382 (dis. opn. of Poochigian, J.), petition for review pending, petition filed September 13, 2019.

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POOCHIGIAN, Acting P.J.