

- (6) **Criminal Law § 500—Sentence—Probation—Unduly Restrictive Conditions.**—In a prosecution for violation of Pen. Code, §§ 314 (indecent exposure) and 647, subd. (a) (disorderly conduct—lewd and dissolute conduct), in which the trial court suspended imposition of sentence on both counts and placed defendant on probation, one of the conditions of probation, that defendant not frequent places where homosexuals congregate, was unduly restrictive. A probationary condition must be reasonable in proportion to, as well as reasonably related to, the crime committed. A condition that defendant, a homosexual, stay out of places where homosexuals congregate would effectively prevent him from participating in lawful social activities as well as business, political and religious activities of homosexually oriented groups. Another condition of probation, that he remain away from the premises of the commission of the offense, an adult bookstore, and similar premises, adequately guarded against a possible recurrence of the convicted offenses.

COUNSEL

Wilbur F. Littlefield, Public Defender, Dennis A. Fischer, Victor Salerno and John Hamilton Scott, Deputy Public Defenders, Thomas F. Coleman and Jay M. Kohorn for Defendants and Appellants.

Michael R. Murnane, City Prosecutor, Everett F. Fields, Deputy City Prosecutor, Ira Reiner, City Attorney, Jack L. Brown and Greg Wolff, Deputy City Attorneys, for Plaintiff and Respondent.

OPINION

FOSTER, Acting P. J.—Penal Code, section 647, subdivision (a) provides: "Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor: (a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view." In *Pryor v. Municipal Court* (1979) 25 Cal.3d 238 [158 Cal.Rptr. 330, 599 P.2d 636], this subdivision was challenged on the ground that the term "lewd or dissolute conduct" is unconstitutionally vague. The Supreme Court