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

In re LOUIS A., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

LOUIS A.,

Defendant and Appellant.

A131307

(San Francisco City & County
Super. Ct. No. JW-11-6017)

The juvenile court found true allegations that appellant Louis A. had committed two felonies—robbery and conspiracy to commit robbery. (Pen. Code,¹ §§ 211, 212.5, subd. (c); former § 182, subd. (a)(1) [Stats. 2002, ch. 907, § 1, pp. 5618-5619]; Welf. & Inst. Code, § 602.) He was made a ward of the juvenile court and was placed on probation. Louis appeals, contending that (1) his trial counsel was ineffective for failing to challenge eyewitness identification evidence; (2) the juvenile court erred by denying his counsel’s request for a continuance to allow time to obtain expert witness testimony on eyewitness identification; and (3) insufficient evidence supports the findings that he committed robbery and conspiracy. We affirm the juvenile court jurisdictional and disposition orders.

¹ All statutory references are to the Penal Code unless otherwise indicated.

I. FACTS

A. *History*

Louis A. was born in August 1995. His parents parted the following year. His half-brother, D.J. was born in 1996. Two half-sisters were also born to his mother in 2001 and 2004. Louis's mother had depression and substance abuse issues. In 2009, he and D.J. were declared dependent children and were removed from her home due to neglect and lack of supervision. He and his younger siblings—for whom he felt responsible—were placed with their aunt. Louis remained devoted to his mother.

In December 2009 and March 2010, the juvenile court sustained allegations that Louis committed misdemeanor grand theft, felony grand theft² and misdemeanor resisting arrest.³ He successfully completed juvenile probation in October 2010. (Former §§ 148, subd. (a)(1), 487, subd. (c);⁴ Welf. & Inst. Code, §§ 602, 725, subd. (a).) By January 6, 2011, Louis and D.J. had left their aunt's home without her permission.

B. *Robbery*

About 10:00 p.m. on the night of January 6, 2011,⁵ thirty-year-old Lourdes Coello was walking alone near Santos Street and Brookdale Avenue in San Francisco. Three young men confronted her. One pulled a black, square-tipped, semiautomatic handgun;⁶ pointed it about a foot away from Coello's face; and demanded her purse. She held her purse at her side with both hands to keep control of it. A second young man punched her three or four times in the side with a closed fist to get her to give up her purse; the gunman moved the gun to her stomach and punched her two or three times, too. Unable

² The felony grand thefts had originally been alleged as robberies. (§ 211; former § 487, subd. (c) [Stats. 2009-2010, 3d Ex. Sess., ch. 28, § 17].)

³ The resisting arrest finding was based on an allegation that Louis committed assault with a deadly weapon other than a firearm. (Former §§ 148, subd. (a)(1) [Stats. 1999, ch. 853, § 8, pp. 6118-6119], 245, subd. (a)(1) [Stats. 2004, ch. 494, § 1, pp. 4040-4041].)

⁴ For our purposes, the current and former versions of these provisions are substantially the same.

⁵ All subsequent dates refer to the 2011 calendar year unless otherwise indicated.

⁶ The gun was not real, but it appeared to be.

to pry the purse loose from Coello, the two assailants told the third young man—serving as a lookout—to take it. The third one grabbed the purse as the other two continued to punch her. Once Coello had lost her purse, all three young men ran off.

Coello ran after the young men, particularly the young unarmed man who hit her, but he ran too fast for her.⁷ When she lost sight of them, she called the police. She reported the incident to San Francisco police shortly after it occurred. She described the height, age and clothing of three African-American young men, but did not offer much detail about their weight or build. She gave a detailed description of the gun. Coello reported that the lookout had something on his head that seemed to be flipping around when he ran. The police interview scene was somewhat chaotic. Coello was very upset—crying, shaking and complaining of pain. Coello’s husband arrived and medics treated her while the police were gathering initial information about the incident.

Several police officers began a search for the suspects. The police obtained a consent to enter and search a residence⁸ a short distance from the scene of the robbery. Four young men—including 15-year-old Louis A. and D.J.—were found there. Louis was wearing a white T-shirt and a large necklace. A third young African-American male, J.M., was also present. Several dark hoodies and a black BB gun were also found at the residence. One black hoodie contained D.J.’s personal belongings. The record does not indicate where Coello’s purse was found, but nothing was missing from it when police returned it to her later.

Coello was taken to a hospital to treat her abdominal pain. Around midnight, San Francisco police brought Louis, J.M. and D.J. to the hospital parking lot. One at a time, each stood about three feet from Coello.⁹ They were each handcuffed. Coello later

⁷ Later, Coello was uncertain whether Louis was the person she pursued.

⁸ In a motion, Louis stated that an anonymous informant directed police to the residence. There was no evidence offered at trial about any informant.

⁹ Initially, an attempt to identify the first of the young men from a distance of 45 feet was attempted, without success. Coello wanted them closer, estimating that three feet was the approximate distance that the perpetrators stood from her during the assault and robbery.

stated that they wore different clothes than what they wore at the time of the robbery. Before the identifications, police told her that these young men may or may not be the ones who assaulted her. She was advised that she was not obligated to identify anyone. In the hospital parking lot, Coello identified Louis as the gunman and J.M. as the unarmed young man who assaulted her. She was uncertain whether D.J. had been involved in the incident. A few hours later in her hospital room, Coello reiterated these identifications to police after viewing three photographs—one each of Louis, J.M. and D.J.¹⁰ During the later identification, she reported that the young man who served as a lookout wore braids from his ears down.

Louis was detained. J.M. and D.J. were also arrested. According to a motion that Louis filed later, D.J.—in a written statement—admitted that he was the young man who had held the BB gun.

C. Wardship Proceedings

On January 10, a petition was filed alleging that Louis should be made a ward of the juvenile court. (Welf. & Inst. Code, § 602, subd. (a).) Specifically, the petition alleged that he had committed second degree robbery using a BB gun, conspiracy to commit robbery using a BB gun, and assault. (§§ 211, 212.5, subd. (c); former §§ 182, subd. (a)(1), 245, subd. (a)(1), 12022, subd. (b)(1) [Stats. 2004, ch. 494, § 3, pp. 4042-4043].) An assessment of his case by child welfare and county probation officials led to a joint recommendation that proceeding on the wardship petition—rather than dealing with Louis’s offenses as part of his juvenile dependency case—would best serve his interests and those of the public. (Welf. & Inst. Code, § 241.1.)

In February, at the start of what was expected to be a contested jurisdiction hearing for all three minors, J.M. and D.J. admitted allegations of grand theft from the person and assault. (Former §§ 245, subd. (a)(1), 487, subd. (c).) The hearing on the allegations against Louis proceeded. Coello testified about the circumstances of the incident. She estimated that the encounter with the three young men took six to seven

¹⁰ In the photographs—which were taken at the station—the young men were dressed as they had been in the parking lot.

minutes.¹¹ A transcript of Coello's tape-recorded 911 call to police was provided to the court.

At trial, Coello described the three young men. She recalled the gunman as a short African-American male about 14 or 15 years old with a light, caramel-colored complexion. He wore a black hoodie, dark baggy pants, dark shoes, a black beanie covering his hair, and an earring. She stood face-to-face with him during the robbery.

Coello also described the unarmed man who struck her as a 15- or 16-year-old African-American male with a darker complexion than the gunman. He had short black hair, was of the same height as the gunman and had a normal build. She described his face as serious with an "evil look." He wore a black hoodie and dark baggy pants. She got a partial view of him, as he stood off to one side during the robbery. In court, she identified Louis as this young man. Coello testified that her identification was based solely on her memory of the incident. She did not see his photograph again after the night of the incident.

The third young man who served as the lookout was also described by Coello. She recalled him as a 15- or 16-year-old African-American male. He also had a darker complexion and looked older than the others. He was a bit taller than the other two, wearing a dark blue crewneck sweatshirt, dark pants and dark shoes. She also saw him face-to-face when he took her purse.

Coello admitted that shortly after the incident, she had misidentified Louis as the gunman to police. By the time of the jurisdiction hearing, she recanted that identification and stated that Louis was the unarmed man who had hit her.¹² She explained that since the initial shock wore off, she had thought more about the incident. Coello had a strong

¹¹ When a stopwatch was run for the length of time that Coello believed matched the time of the incident, the clock ran for a few seconds less than two minutes. Coello later revised her estimated time of the incident to three to four minutes.

¹² She also told the juvenile court that by this time, she believed that the third young man—the one she had not been sure about before—was the gunman. We note that this shift in Coello's identification was both favorable to Louis and consistent with D.J.'s admission that he was the gunman.

memory of the assault and did not want to accuse Louis of holding a gun if he had not done so.

When cross-examined about her identification evidence, Coello admitted that she had been given oral medication for pain at the hospital. Initially, she could not recall if the hospital identifications occurred before or after she took pain medication. Later, she testified that she left the hospital waiting room to make the identification in the parking lot before she was seen by medical personnel. Thus, she believed that she did not take the medication until after the parking lot identification.¹³ Coello admitted that she was still in shock at this time.

After the People completed its case-in-chief, the trial court granted Louis's motion to strike the two weapon use allegations. (Former § 12022, subd. (b)(1).) In this midst of the three-day jurisdiction hearing, Louis sought a continuance to give him time to hire an identification expert. He noted that until shortly before the hearing, it appeared that all three minors were contesting jurisdiction, but that the tenor of the case changed once D.J. and J.M. admitted the allegations against them. The trial court denied the request, finding that it was untimely and that an inadequate basis for a continuance had been offered.

In his defense, Louis called several San Francisco police officers to testify about the procedures used to obtain Coello's identifications of him, D.J. and J.M. He brought out evidence that at the scene of the robbery, Coello's initial descriptions of the individuals who hit her matched J.M. and D.J., not him.

During closing argument, his trial counsel reasoned that Coello's identification evidence was confused and unreliable. Louis's counsel reviewed the various factors used to evaluate the reliability of an eyewitness identification, arguing that the evidence in this matter was not sufficiently reliable to form the basis of a finding by proof beyond a reasonable doubt that Louis had committed the alleged offenses. (See CALCRIM No. 315.) She also argued that the perpetrators used only that amount of force needed to

¹³ This testimony is consistent with the police officer's recollection that she was still in street clothes and that she had been taken from the hospital waiting room to the parking lot for the identification.

acquire Coello's purse, such that—if the juvenile court found the robbery allegation to be true—an additional finding of assault would be improper.

The juvenile court took a recess to review the evidence in the case. When it reconvened, it noted that it had carefully reviewed that evidence and the applicable jury instructions on eyewitness identification and conspiracy. (See CALCRIM Nos. 315, 415.) The juvenile court found Coello to be a credible and candid witness who corrected herself when necessary and who had consistently placed Louis at the scene of the robbery. It rejected the significance of the “repositioning” of Louis from one role in the robbery to another, concluding that this adjustment was not equivalent to an inability to identify him as one of the robbers. It sustained the felony robbery and conspiracy allegations, but found the assault allegation to be untrue and struck it. (§§ 211, 212.5, subd. (c); former § 182, subd. (a)(1).)

Louis was made a ward of the juvenile court. He was placed on probation. As a term of probation, Louis was barred from any contact with J.M. He was permitted to visit D.J. in a supervised setting. The maximum custodial time was stipulated to be six years.

II. INEFFECTIVE ASSISTANCE OF COUNSEL

A. Right to Effective Counsel

Louis makes three attacks on Coello's identification evidence. First, he contends that his trial counsel's failure to seek exclusion of her pretrial eyewitness identification testimony constituted ineffective assistance of counsel. He argues that his trial counsel should have challenged the identification evidence obtained during the showup in the hospital parking lot as the product of unduly suggestive identification procedures.

A juvenile alleged to have committed a criminal offense has a right to the effective assistance of counsel. (See U.S. Const., 6th Amend.; Cal. Const., art. I, § 15.) To prevail on this claim of error, Louis must establish ineffective assistance of counsel by a preponderance of evidence. (See *People v. Ledesma* (1987) 43 Cal.3d 171, 218.) He must show both that his counsel's representation fell below an objective standard of reasonableness and that it is reasonably probable that, but for that error, the result of the

proceeding would have been different. (*Strickland v. Washington* (1984) 466 U.S. 668, 686-688, 694-695; *People v. Ledesma, supra*, 43 Cal.3d at pp. 215-218; see *People v. Benavides* (2005) 35 Cal.4th 69, 92-93.) An ineffective assistance of counsel claim fails on an insufficient showing of either incompetency or prejudice. (*People v. Rodrigues* (1994) 8 Cal.4th 1060, 1126.)

B. *Pretrial Identification*

1. *Necessary*

The question of whether an identification procedure was unduly suggestive is a mixed question of law and fact that we review de novo on appeal. (*People v. Kennedy* (2005) 36 Cal.4th 595, 608-609, overruled on other grounds in *People v. Williams* (2010) 49 Cal.4th 405, 458-459.) When determining whether the admission of identification evidence violated a minor's due process rights, we first consider whether the identification procedure used was unduly suggestive and unnecessary. (See *People v. Kennedy, supra*, 36 Cal.4th at p. 608; see also *Manson v. Brathwaite* (1977) 432 U.S. 98, 114; *Neil v. Biggers* (1972) 409 U.S. 188, 198-199.)

Louis has not established that the pretrial identification procedure was unnecessary. The need to treat an injured witness may justify a hospital showup. (See *Manson v. Brathwaite, supra*, 432 U.S. at pp. 104-106, 114; *Neil v. Biggers, supra*, 409 U.S. at pp. 196, 198; *Stovall v. Denno* (1967) 388 U.S. 293, 302; *People v. Bisogni* (1971) 4 Cal.3d 582, 587.) The evidence before the juvenile court was that Coello was in great pain from the assault she suffered, so much so that she was hospitalized overnight.

2. *Not Suggestive*

Nor has Louis shown that Coello's pretrial identification was the product of unduly suggestive police conduct. She twice declined to identify the third person she was shown—both in person and by photograph—during the pretrial identification process. This factor tends to support the conclusion that the pretrial identification was not a rubber-stamping of a suggestion offered by law enforcement officials, but the product of Coello's own will.

3. *Totality of the Circumstances*

Even if we assume *arguendo* that the procedures used were unnecessary and unduly suggestive, we would conduct a second inquiry, asking whether the pretrial identification itself was nevertheless reliable under the totality of the circumstances. In this latter inquiry, we consider Coello's opportunity to view the perpetrator at the time of the offense, the accuracy of her earlier description of the suspect, the level of certainty she demonstrated at the time of the identification, and the lapse of time between the robbery and the identification. (See *People v. Kennedy*, *supra*, 36 Cal.4th at p. 608; see also *Manson v. Brathwaite*, *supra*, 432 U.S. at p. 114; *Neil v. Biggers*, *supra*, 409 U.S. at pp. 198-199.)

The totality of the circumstances tends to support the reliability of the pretrial identification, at least insofar as it placed Louis at the scene of the robbery. Even under the facts most favorable to Louis, Coello had almost two minutes to view the perpetrators. Her initial description of the three young men who attacked her was general and somewhat confused about the role each of the young men played. She seemed fairly certain of the identifications of Louis and J.M., and admitted to being uncertain about identifying D.J. The time between the robbery and hospital in-person showup was less than three hours. While not a perfect set of circumstances supporting the reliability of the pretrial identification, the totality of those circumstances tends to support the reliability of Coello's pretrial identification, at least with regard to identifying Louis as one of the robbers.

An ineffective assistance of counsel claim fails if no incompetence is shown. (*People v. Rodrigues*, *supra*, 8 Cal.4th at p. 1126.) Trial counsel is not incompetent for failing to make a nonmeritorious motion. (See *People v. Lewis* (1990) 50 Cal.3d 262, 289.) We are satisfied that such a motion to exclude the pretrial identification evidence would not have been successful. As Louis has not demonstrated incompetence on the part of his trial counsel, this aspect of his ineffective assistance of counsel fails.

C. *In-court Identification*

The most difficult hurdle for Louis to overcome in his challenge to Coello's pretrial identification is that the juvenile court did not rely on it as much as on her in-court identification—at least not to the extent that Coello identified Louis as the gunman in her pretrial identification. The juvenile court impliedly rejected that aspect of the pretrial identification, as Coello herself did. Instead, it found her in-court recantation of that aspect of her identification to be candid and credible. Thus, it is clear that while the juvenile court considered the pretrial identification in a general manner—linking Louis to the robbery and conspiracy, along with D.J. and J.M.—we are satisfied that it relied more heavily on Coello's in-court identification of Louis as the unarmed assailant. This brings us to our next question—whether the juvenile court could reasonably rely on the in-court identification of Louis.

Even if we found the pretrial procedures surrounding the hospital showup were questionable, the exclusion of that evidence leaves us with Coello's in-court identification of Louis to support the juvenile court's jurisdictional finding. However, admission of an eyewitness identification at trial following a pretrial identification violates due process if the pretrial identification procedure was so impermissibly suggestive that it gives rise to a very substantial likelihood of irreparable misidentification. (*Simmons v. United States* (1968) 390 U.S. 377, 384; *People v. Cooks* (1983) 141 Cal.App.3d 224, 305; see *Manson v. Brathwaite*, *supra*, 432 U.S. at p. 116; *Neil v. Biggers*, *supra*, 409 U.S. at p. 198.) While Louis bears the burden of showing that the pretrial identification procedures were unfair or suggestive, it is the prosecution's burden to prove by clear and convincing evidence that Coello's in-court identification was not tainted by an improper pretrial identification. (See *United States v. Wade* (1967) 388 U.S. 218, 240-241; *People v. Cunningham* (2001) 25 Cal.4th 926, 989-990; *People v. Bisogni*, *supra*, 4 Cal.3d at p. 587; *People v. Cooks*, *supra*, 141 Cal.App.3d at pp. 305-306.) Any conclusion that identification procedures were unfair must be based on demonstrable reality, not speculation. (*People v. Phan* (1993) 14 Cal.App.4th 1453, 1461.)

While the identification procedures used could have been less suggestive, the possibility of irreparable misidentification does not rise to the level of a very substantial likelihood for several reasons. (See *Simmons v. United States*, *supra*, 390 U.S. at p. 384.) First, the potential for pretrial misidentification was not irreparable because Coello herself repaired her pretrial identification when she recanted her initial testimony that Louis was the gunman. Second, the juvenile court necessarily relied on her in-court identification. By absolving Louis of the allegation that he was the gunman while also concluding that he was involved in the underlying incident, the juvenile court necessarily found that Coello's in-court identification was more credible than the pretrial identification.

Third, Coello testified that her in-court identification was based on her memory of the incident, not on her pretrial identification. When an in-court identification is based on observations made at the time of the offense—not the challenged pretrial identification—no due process violation arises from the use of that in-court identification. (See *Neil v. Biggers*, *supra*, 409 U.S. at pp. 197-198; see also *People v. Phan*, *supra*, 14 Cal.App.4th at pp. 1461-1462.) Her in-court identification came four weeks after the incident. This short timeframe makes her reliance on her memory of the incident more reasonable. Our independent review of the evidence satisfies us that the juvenile court's findings were based principally on Coello's in-court identification, which was untainted by any flaws in her pretrial identification.

D. *Prejudice*

Even if we assume arguendo that Louis could establish that the procedures used to obtain Coello's pretrial identification of him in the hospital parking lot were unduly suggestive and that this identification evidence should have been excluded, he cannot establish prejudice from its admission. Many of the factors we considered to conclude that the in-court identification was untainted by the pretrial identification also demonstrate that Louis cannot establish prejudice for his ineffective assistance of counsel claim. In the hospital showup, she pointed to Louis as the gunman. At trial, she admitted that this was incorrect—that he had not held the gun, but had only punched her. She

testified that her in-court identification of Louis as the unarmed person who hit her was based solely on her memory. She had not viewed Louis's photograph—used in the photographic identification that reiterated the parking lot showup identification—in preparation for trial. The trial was conducted only four weeks after the incident occurred, when the robbery and assault were still fresh in her mind.

Coello's in-court identification that Louis was involved in the incident but was not the gunman is the key identification that the juvenile court found to be credible. It is also a factor that Coello's in-court identification evidence was corroborated by other evidence. (See *People v. McDonald* (1984) 37 Cal.3d 351, 377, overruled on other grounds in *People v. Mendoza* (2000) 23 Cal.4th 896, 914.) Louis was found shortly after the robbery a short distance from the scene of the offense while in the company of two young men—one of them, his brother—who later admitted participating in that incident. There was evidence supporting an inference that he had changed his clothing since the time of the robbery. A black hoodie matching Coello's description of the clothing that the unarmed gunman wore during the robbery was found in the residence where Louis was found nearby. A gun matching Coello's description was also found there, and there was evidence suggesting that Coello's purse was likely recovered from the same location.¹⁴ While none of this evidence standing alone would prove Louis's involvement in the incident, this evidence tends to corroborate Coello's in-court identification of Louis as one of the robbers.¹⁵ All of these factors, taken together, satisfy us that a motion to exclude Coello's identification evidence would not have been successful. As he cannot establish prejudice resulting from any presumed lapse on the part of his trial counsel,

¹⁴ There was evidence that Coello's purse was returned to her by police, but no direct evidence of where it was recovered.

¹⁵ That finding is consistent with D.J.'s admission that *he* was the gunman and the trial court's dismissal of the gun enhancement allegations against Louis. It is not undermined by its consistency with the admissions of D.J. and J.M. that they took part in the incident and the fact that Louis was found with these two young men very shortly after the robbery occurred. (See *Manson v. Brathwaite*, *supra*, 432 U.S. at p. 116.)

Louis cannot establish ineffective assistance of counsel. (See *People v. Rodrigues, supra*, 8 Cal.4th at p. 1126.)

III. CONTINUANCE

Louis also contends that the juvenile court erred in denying his trial counsel's request for a continuance in order to obtain expert witness testimony on eyewitness identification evidence. The juvenile court denied the continuance on two grounds—the untimeliness of the motion made in mid-hearing and a lack of an adequate basis for a continuance. We need only consider the latter basis, as the juvenile court properly concluded that Louis failed to state good cause for a continuance.

In a juvenile proceeding, a continuance may only be granted on a showing of good cause. (Welf. & Inst. Code, § 682, subd. (b); *In re Maurice E.* (2005) 132 Cal.App.4th 474, 477; Cal. Rules of Court, rule 5.550(b)(1); see § 1050, subd. (e).) The determination of what constitutes good cause is left to the discretion of the juvenile court. (See, e.g., *People v. Doolin* (2009) 45 Cal.4th 390, 450; *In re Maurice E., supra*, 132 Cal.App.4th at p. 481.) On appeal, we review the circumstances of each case and determine whether the juvenile court abused its discretion in denying the motion for continuance. If the reasons for denying the continuance were arbitrary, that ruling constitutes a denial of due process. We will not reverse unless Louis shows both an abuse of discretion and prejudice resulting from the denial of a continuance. (See *People v. Doolin, supra*, 45 Cal.4th at p. 450; *People v. Barnett* (1998) 17 Cal.4th 1044, 1126; *People v. Mickey* (1991) 54 Cal.3d 612, 660.)

Likewise, the decision whether to admit expert witness testimony on eyewitness identification is a matter for the trial court's discretion. Such evidence is not often needed. In a jury case when an eyewitness identification is the key evidence in the case, and that evidence is not substantially corroborated by other evidence, the California Supreme Court has concluded that expert testimony about the accuracy of the identification should be admitted. (*People v. McDonald, supra*, 37 Cal.3d at p. 377.)

The obvious defect in Coello's pretrial identification was that she confused the roles of the various participants. However, she did not waver in her belief that Louis was

one of the perpetrators in her various identifications, whether she identified him as the gunman or the unarmed man who struck her. It is also significant that a court—not a jury—weighed the identification evidence in this matter. (See *People v. McDonald*, *supra*, 37 Cal.3d at pp. 367-369, 377.) We presume that the juvenile court was not ignorant of the psychological reasons that may undermine the reliability of a sincerely held eyewitness identification. Certainly, Louis has made no showing that the juvenile court would have found the opinions of an expert witness to be helpful.

In this matter, the juvenile court carefully considered Coello’s testimony, particularly with regard to the reliability of her identification evidence. It considered the various factors set out in CALCRIM No. 315—the very factors that Louis argues were not properly considered—when evaluating reliability. It found Coello to be a credible witness. It offered a considered and reasoned explanation of why it found the testimony that Louis was a perpetrator in the robbery and conspiracy to be credible. In this matter, we are satisfied that expert testimony about the reliability of eyewitness identification evidence would not have assisted the juvenile court in its determination of the issues before it. As the motion for continuance lacked good cause, the juvenile court acted within its discretion to deny the request.

IV. SUFFICIENCY OF EVIDENCE

Finally, Louis contends that the prosecution failed to prove beyond a reasonable doubt that he committed robbery and conspiracy. In so doing, he reasons that Coello’s identification of him was clearly mistaken; that the hospital showup was impermissibly suggestive; and that no reasonable trier of fact could have found him culpable on the basis of her identification evidence.¹⁶ Louis argues that Coello’s identification evidence was insufficient as a matter of law. In so doing, he questions whether a jurisdictional finding can ever be based on the eyewitness identification of a single witness.

When reviewing the sufficiency of evidence in a juvenile court matter, we must view the evidence in the light most favorable to the juvenile court’s finding. We

¹⁶ We have already rejected this underlying assumption. (See pt. II., *ante*.)

determine whether a rational trier of fact could have found the essential elements of the allegations to be true beyond a reasonable doubt. (*Jackson v. Virginia* (1979) 443 U.S. 307, 319; *In re Ryan N.* (2001) 92 Cal.App.4th 1359, 1371-1372.) We have no power to decide credibility or to reweigh conflicts in evidence. The juvenile court is the sole judge of the credibility of witnesses in a juvenile wardship proceeding. (*In re Ryan N., supra*, at p. 1373.) Even if the evidence might be reasonably reconciled with a different conclusion, as long as substantial evidence supports the juvenile court's view of that evidence, we may not redetermine the underlying issue. (See *People v. Towler* (1982) 31 Cal.3d 105, 118.)

Contrary to Louis's claim, the testimony of a single witness—if believed—is sufficient to support a wardship finding. (Evid. Code, § 411; see *People v. Watts* (1999) 76 Cal.App.4th 1250, 1259; *People v. Cooks, supra*, 141 Cal.App.3d at p. 278.) In this matter, Coello's various identifications consistently placed him at the scene of the robbery and her in-court identification supported the conclusion that Louis was the unarmed person who punched her to get her to relinquish her purse to his cohort. The juvenile court expressly found Coello's testimony to be credible. In doing so, it stated that it weighed the same factors that Louis urges us to apply on appeal to overturn that court's finding. (See CALCRIM No. 315.) We have no power to reconsider the credibility of witnesses—this is solely a juvenile court function. (*In re Ryan N., supra*, 92 Cal.App.4th at p. 1373.) Coello's testimony is sufficient to support the jurisdictional

findings that Louis committed robbery and conspiracy, and to support the wardship finding made at the disposition hearing.

The orders are affirmed.

Reardon, J.

We concur:

Ruvolo, P.J.

Rivera, J.