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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

**THE PEOPLE,**

**Plaintiff and Respondent,**

**v.**

**DYLAN DOTSON,**

**Defendant and Appellant.**

**A134383**

**(San Francisco County  
Super. Ct. No. 11014034)**

Dylan Dotson was placed on felony probation after pleading guilty to second degree robbery. (Pen. Code, § 211.) He argues that the charge stemmed from information obtained as a result of an unlawful detention, and that the trial court erred when it denied his motion to suppress under Penal Code section 1538.5. We affirm.

**I. BACKGROUND**

The district attorney filed an information charging appellant with second degree robbery. Appellant filed a motion to suppress the victim's in-field identification of him as one of the robbers and his own statement to police admitting his involvement in the crime, arguing that this evidence was the product of an unlawful detention. The following evidence was adduced at the hearing on the motion:

On May 25, 2011, at about 4:49 p.m., San Francisco Police Department Officers Byrne, Coleman and Nazzal interviewed a robbery victim at the corner of Van Ness Avenue and Washington Street. The victim said that three Black males had approached him after he disembarked from a bus at Van Ness and Clay Street, and that he complied when one of them demanded his iPhone. A report of the crime and the victim's

description of the robbers was entered into the computer-assisted dispatch system (CAD) and broadcast over the police radio.

San Francisco Police Department Officer Needham<sup>1</sup> was patrolling on Post Street near Polk Street when he heard from police dispatch that a phone had been stolen near the corner of Van Ness and Clay and that the suspects were three Black males in their teens or twenties. Needham recalled that one suspect was described as having long hair, one as wearing a beanie, one as wearing a “black or a baseball hat,” with all of them ranging in height from five-feet seven-inches tall to five-feet-nine-inches tall. Needham noticed three young Black men walking southbound on Polk Street who he believed matched this description and who “appeared to be in communication with another” before they separated. He turned southbound onto Polk Street and contacted another officer driving northbound on Polk, who confirmed that he had seen the same three men. These men were later identified as appellant, his co-defendant Raymont Bassett, and another man named Jefferson. Bassett was heavy-set and wore his hair in dreadlocks.

Officer Needham radioed Officer Byrne to obtain additional information about the suspects. Needham recalled that he asked Byrne whether one suspect was heavy-set with dreadlocks wearing a black tee shirt and a white shirt underneath, and that Byrne confirmed this description. Byrne recalled that he had provided the information about the dreadlocks in the initial description of the suspects, and the additional information he provided to Needham was that one suspect was wearing a black hoodie with a white tee shirt underneath.

After speaking to Officer Byrne, Officer Needham detained one of the three men, appellant, at the corner of Larkin Street and Geary Boulevard, about 10 to 12 blocks away from the scene of the robbery.<sup>2</sup> Appellant was wearing a dark jacket with a black

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<sup>1</sup> Although the officer and the author of this opinion share the same last name, there is no relation.

<sup>2</sup> A CAD printout introduced as an exhibit at the suppression hearing shows that the robbery was reported at 4:49 p.m. and that appellant was detained at 4:59 p.m.

hooded sweatshirt underneath. The victim identified him as one of the robbers in an in-field “cold show.”

The trial court denied the motion to suppress: “I believe there were specific articulable facts. There were three [B]lack males involved in the taking. [¶] There were three [B]lack males in proximity of each other at the time of the observation of [appellant]. [¶] Those three [B]lack males then separated. During the point of separation, before the officer actually detained [appellant], the officer did contact the officer who was in contact with the victim ascertaining further descriptions. [¶] Now, that description may have been as to another of the three, but it is still related to one of the three that took – that allegedly took the phone. [¶] From there, [appellant] I believe was reasonably detained. The victim was brought to the site and did then identify [appellant]. [¶] The motion to suppress is denied.”

Appellant pled guilty to second degree robbery in exchange for an initial grant of probation and filed a notice of appeal indicating that he is challenging the denial of his motion to suppress. (Pen. Code, § 1538.5, subd. (m).)

## II. STANDARD OF REVIEW

“The standard of appellate review of a trial court’s ruling on a motion to suppress is well established. We defer to the trial court’s factual findings, express or implied, where supported by substantial evidence. In determining whether, on the facts so found, the search or seizure was reasonable under the Fourth Amendment, we exercise our independent judgment.” (*People v. Glaser* (1995) 11 Cal.4th 354, 362.) In cases where the facts are essentially undisputed, we independently determine the constitutionality of the challenged search or seizure. (*People v. Balint* (2006) 138 Cal.App.4th 200, 205.)

## III. DISCUSSION

Appellant argues that his detention was unlawful because it was unsupported by reasonable suspicion that he was involved in the robbery. We disagree.

“ ‘A detention is reasonable under the Fourth Amendment when the detaining officer can point to specific articulable facts that, considered in light of the totality of the circumstances, provide some objective manifestation that the person detained may be

involved in criminal activity.’ ” (*People v. Hernandez* (2008) 45 Cal.4th 295, 299; see generally *Terry v. Ohio* (1968) 392 U.S. 1, 21; *People v. Souza* (1994) 9 Cal.4th 224, 230 (*Souza*)). The standard of reasonable suspicion is “less demanding than probable cause ‘not only in the sense that reasonable suspicion can be established with information that is different in quantity or content than that required to establish probable cause, but also in the sense that reasonable suspicion can arise from information that is less reliable than that required to show probable cause.’ ” (*Souza*, at pp. 230–231.)

When Officer Needham detained appellant, he was aware of the following facts: (1) a robbery had been committed a few minutes earlier and a few blocks away; (2) the victim had described the robbers as three Black men in their teens or twenties; (3) appellant, Bassett, and Jefferson fit this description; (4) they appeared to be communicating with one another before they went their separate ways; (5) Bassett was heavy-set and wore his hair in dreadlocks, as did one of the described suspects; and (6) appellant had a hooded sweatshirt on under his jacket, and one of the suspects had been described as wearing a black hoodie. The totality of the circumstances supplied reasonable suspicion to detain appellant regarding the robbery.

Appellant argues that his detention was premised on a generic description based on race, and suggests that if the circumstances in this case amount to reasonable suspicion, police would have had “reasonable suspicion to detain every [B]lack male adult found in a group in the Western Addition of San Francisco – the area 10-12 blocks away from the site of the robbery.” We are not persuaded.

In support of his argument, appellant relies on *In re Tony C.* (1978) 21 Cal.3d 888, in which a highway patrol officer stopped two black youths walking on the sidewalk in the middle of the day because, the day before, he had “learned informally that several burglaries had been reported” in the area and “ ‘three male blacks’ were being sought.” (*Id.* at pp. 896-897.) Noting that nothing in the youths’ behavior suggested they might be involved in criminal activity, the court found the detention to be unsupported by reasonable suspicion: “To [uphold the detention] would authorize the police to stop and question every [B]lack male, young or old, in an area in which a few [B]lack suspects

were being sought. Such wholesale intrusion into the privacy of a significant portion of our citizenry would be both socially intolerable and constitutionally impermissible.” (*Id.* at p. 898.)

Here, by contrast, the detention was not based on the mere fact that the suspects matched a vague description of Black males of unspecified age who supposedly committed crimes at least a day earlier. Appellant and his two apparent companions were of the same gender, race, and age as three young men who had committed a robbery nearby only minutes before. One of the men had a distinctive hair style and body type that matched the victim’s description of one of the robbers; appellant’s clothing was consistent with the description of another suspect. It was reasonable for Officer Needham to briefly detain appellant to investigate his possible involvement in the robbery. (See *In re Carlos M.* (1990) 220 Cal.App.3d 372, 382 [detention proper when based on particularized description of suspects (age, hair and eye color, hair length and ethnicity) together with appellant’s presence near scene of a recent crime in the company of another man matching a described suspect]; *People v. Fields* (1984) 159 Cal.App.3d 555, 564 [upholding detention as reasonable because defendant was seen in general vicinity of the crime and generally matched the description of the suspect, being of the same race, gender, height, general age group and attire]; *People v. McCluskey* (1981) 125 Cal.App.3d 220, 226 [reasonable suspicion to stop vehicle traveling from area of robbery reported minutes earlier, where the officer thought the passenger, a 20-year old Mexican male with dark hair and a dark jacket, matched description of the robber as a 19- to 21-year-old Mexican male with brown hair and blue jacket]; *People v. Craig* (1978) 86 Cal.App.3d 905, 911-912 [officers acted reasonably in stopping suspects who did not perfectly match victim’s description, but were same race, gender, build and number].)

IV. DISPOSITION

The judgment is affirmed.

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NEEDHAM, J.

We concur.

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JONES, P. J.

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BRUINIERS, J.