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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re JACOB S., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

JACOB S.,

Defendant and Appellant.

A137037

(Contra Costa County
Super. Ct. No. J12-00319)

Jacob S. was placed on nonwardship probation for possessing a knife on school grounds. (Pen. Code, § 626.10, subd. (a)(1); Welf. & Inst. Code, § 725, subd. (a).) He contends the court should have suppressed the knife because it was discovered during an unlawful detention. (Welf. & Inst. Code, § 700.1.) Alternatively, he maintains he did not possess the knife on school grounds because his possession occurred in a car parked on a road adjacent to school property. We conclude that Jacob was lawfully detained and that his possession of the knife occurred on school grounds because “school” is statutorily defined to include “any public right-of-way situated immediately adjacent to school property.” (Pen. Code, § 626, subd. (a)(4).) We shall affirm the jurisdictional and dispositional orders.

STATEMENT OF FACTS

Jacob is a student at Pinole Valley High School. The school is a “closed campus”; students are not permitted to leave during lunchtime without written permission. Students

are also subject to a municipal daytime curfew that, absent specified exceptions, prohibits unaccompanied minors from being out of school without parental or school authorization. (Pinole Ord. No. 9.16.020.) A Pinole police officer is assigned to Pinole Valley High School as a “school resource officer” to enforce these rules and others. The officer testified that his duties are to “[k]eep the school safe, protect the students, protect the teachers and staff, arrest law violators, mentor, even sometimes teach.”

On November 7, 2011, the officer was in an unmarked police car observing the school campus at the start of the students’ noon lunch period. He saw Jacob, whom he knew to be a student, in a parked car on Pinole Valley Road “directly adjacent to campus.” The school is located at 2900 Pinole Valley Road.¹ Pinole Valley Road borders the east side of the school campus and provides the main access to the school’s buildings. Jacob was parked at the curb of the public access sidewalk that runs along Pinole Valley Road, “five or six feet” across the sidewalk from a school parking lot. The officer testified that students often park on the road and use their cars as lockers to store and retrieve items during the school day. The officer was trained to patrol the area and to regard the sidewalk and road adjacent to the campus as part of the school grounds.

The officer first observed Jacob in a parked car on Pinole Valley Road in front of the school then saw him drive away from the curb and down the road. Concerned that Jacob was leaving campus without permission, the officer drove after him and made a traffic stop near the campus.² The officer walked to the car window to talk to Jacob, where he smelled burnt marijuana. The officer asked Jacob “why he was off campus and if he had permission to be off campus.” Jacob said he left without permission and was “going to use the bathroom.” Jacob was asked to provide his driver’s license, car registration, and proof of insurance. Jacob did not provide the documents. Jacob reached

¹ We take judicial notice of the school’s address. (Evid. Code, § 452, subd. (h).) We also have reviewed photographs of the area and an aerial map introduced as evidence.

² The entire encounter between Jacob and the school resource officer is not reported. Jacob’s attorney stipulated that the initial traffic stop was being challenged, not the subsequent car search, and thus successfully excluded a full account of the events leading to the search and the items discovered. We relate here only those matters disclosed at the jurisdictional hearing.

into the car's center console to retrieve a traffic citation to show the officer. Jacob did so by lifting the console lid a few inches "instead of opening it all the way up," which made it difficult to retrieve the item. The officer was suspicious that Jacob was hiding something. The officer looked inside the center console and found "two Swisher Sweet cigars" and a "locking folding knife" about seven inches long with a three inch blade. A fishing pole and cooler were also found in the car. Jacob said he was fishing the day before and used the knife to cut his fishing line then left the knife in the car.

PROCEDURAL HISTORY

In March 2012, a juvenile wardship petition was filed alleging that Jacob possessed a weapon on school grounds, a misdemeanor. (Pen. Code, § 626.10, subd. (a)(1); Welf. & Inst. Code, § 602.) Jacob denied the allegation and, with the assistance of counsel, filed a motion to suppress the knife seized during the car search. (Welf. & Inst. Code, § 700.1.) In July 2012, the motion was heard in conjunction with the contested jurisdictional hearing. Jacob's attorney argued that the school resource officer was without reasonable suspicion to stop Jacob because the officer did not know if Jacob had permission to leave school for a medical appointment or other authorized purpose. On the substantive charge, defense counsel maintained that Jacob was not on school grounds when he possessed the knife. Counsel acknowledged that the statute broadly defines school to include "any public right-of-way situated immediately adjacent to school property" (Pen. Code, § 626, subd. (a)(4)) but maintained that the sidewalk alone, not the road where Jacob was parked, fit that description.

The court denied Jacob's motion to suppress evidence, finding that the officer had a "reasonable, articulable suspicion to stop the minor" as a possible truant. The court requested briefing on the question whether Jacob's knife possession occurred on school grounds. Supplemental briefing and a hearing on the matter occurred in August 2012. The court sustained the allegation that Jacob possessed a knife on school grounds upon finding that Jacob possessed the knife in his car and that the car, parked at the curb of a sidewalk abutting the school, was on school grounds within the meaning of the statute. (Pen. Code, § 626.10, subd. (a).) The dispositional hearing was held in October 2012.

The court placed Jacob on nonwardship probation for six months. (Welf. & Inst. Code, § 725, subd. (a).) Jacob filed a timely appeal.

DISCUSSION

1. *The trial court properly denied Jacob's motion to suppress evidence.*

Jacob asserts that the juvenile court should have suppressed evidence of the knife and its discovery in his car because the knife was found during an unlawful detention. “ ‘On appeal from the denial of a suppression motion, the court reviews the evidence in a light favorable to the trial court's ruling. [Citation.] We must uphold those express or implied findings of fact by the trial court which are supported by substantial evidence and independently determine whether the facts support the court's legal conclusions.’ ” (*In re William V.* (2003) 111 Cal.App.4th 1464, 1468.)

Jacob was detained on suspicion of truancy while driving on a public street after leaving campus. Truancy is “conduct that warrants detention for the purpose of investigation.” (*In re James D.* (1987) 43 Cal.3d 903, 916, fn. 7.) A police officer “may arrest or assume temporary custody, during school hours, of any minor subject to compulsory full-time education . . . found away from his or her home and who is absent from school without valid excuse” (Ed. Code, § 48264.) A municipal daytime curfew prohibits unaccompanied minors from being out of school without parental or school authorization (Pinole Ord. No. 9.16.020.), as do school rules. “A detention to investigate whether a person is a truant is justified when there are specific and articulable facts causing an officer to suspect, reasonably, that a truancy violation is occurring, and that the person he intends to detain is a truant.” (*In re James D.*, *supra*, at p. 916, italics deleted.)

A truancy detention has been upheld where the police stopped a young person carrying a back pack on a public street miles from school during school hours. (*In re Humberto O.* (2000) 80 Cal.App.4th 237, 240-241; accord *In re James D.*, *supra*, 43 Cal.3d at pp. 917-918.) The facts here provide a stronger basis for the detention because the officer who detained Jacob knew he was a student subject to compulsory education

and saw Jacob leave a closed campus during school hours. Jacob contends that reasonable suspicion is nevertheless absent because the police officer had only a “hunch” that Jacob lacked permission to leave. The officer was not required to know that Jacob was leaving without permission. During school hours, minors away from school may be detained to ascertain if they are truants. (*In re Humberto O.*, *supra*, at p. 241.) The possibility that Jacob had authorization to leave school does not prohibit a police officer from stopping him to ask for proof of authorization. It is well established that “[t]he possibility of an innocent explanation does not deprive the officer of the capacity to entertain a reasonable suspicion of criminal conduct. Indeed, the principal function of his investigation is to resolve that very ambiguity and establish whether the activity is in fact legal or illegal” (*In re Tony C.* (1978) 21 Cal.3d 888, 894.) The officer here was justified in stopping Jacob to ask if he had permission to leave school.

2. Substantial evidence supports the court’s finding that Jacob possessed a knife on school grounds.

Jacob had a knife in his car, which was parked on Pinole Valley Road fronting the school. The knife was a locking folding knife with a three-inch blade. It is unlawful to bring or possess “a knife having a blade longer than 2½ inches” or a “folding knife that locks into place” “upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12.” (Pen. Code, § 626.10, subd. (a)(1).) “School” is defined to include a “four-year high school” or “any public right-of-way situated immediately adjacent to school property.” (Pen. Code, § 626, subd. (a)(4).) Jacob contends there is insufficient evidence that his possession of the knife occurred on school grounds. He concedes that the sidewalk along Pinole Valley Road is a public right-of-way adjacent to the school but maintains that the right-of-way does not extend to the road.

“Our statutory construction begins with the plain, commonsense meaning of the words in the statute ‘ “because it is generally the most reliable indicator of legislative intent and purpose.” ’ [Citation.] ‘When the language of a statute is clear, we need go no further.’ [Citation.] Here, the language is clear, and interpreting it according to its plain

meaning will not “ ‘ ‘ ‘result in absurd consequences which the Legislature did not intend.’ ” ’ ” (*People v. McCullough* (2013) 56 Cal.4th 589, 592.) The usual meaning of a “public right-of-way” includes streets. (E.g., Gov. Code, § 39933 [referring to “[p]ublic streets, highways, and other public rights of way”].) It is “the right of passage held by the public in general to travel on roads, freeways, and other thoroughfares.” (Black’s Law Dict. (8th ed. 2004) p. 1351, col. 1.)

Jacob concedes that public rights of way are commonly understood to include sidewalks and streets but insists that some ambiguity in the meaning remains and thus the statute should be interpreted in his favor to exclude streets. We discern no ambiguity with respect to the present circumstances. While there may be some ambiguity in applying the statute to the traffic lanes of a street that run by a school campus, the parking lane of the street, where Jacob’s car was parked, clearly is within the “public right-of-way situated immediately adjacent to school property,” so that Jacob’s possession of the knife was upon school grounds within the meaning of the statute. (Pen. Code, § 626, subd. (a)(4).)

Our interpretation of the statute is consistent with Legislative intent. “The Legislature has recognized that the ‘[p]roliferation of weapons and other injurious objects brought onto school grounds by pupils serves to exacerbate instances of violence.’ [Citation.] It has enacted [Penal Code] section 626.10 to prevent violence at schools by reducing the incidence of weapons on campus.” (*In re Arturo H.* (1996) 42 Cal.App.4th 1694, 1698.) In doing so, the Legislature prohibited knives not only “within” schools but also “upon the grounds” of any school (Pen. Code, § 626.10, subd. (a)(1)) and broadly defined school to include “any public right-of-way situated immediately adjacent to school property” (Pen. Code, § 626, subd. (a)(4)). Particularly in view of the testimony that students regularly use their parked cars as lockers, it would frustrate the purpose of the law to interpret a public right-of-way to end at the sidewalk and exclude a student’s car parked at the curb.

DISPOSITION

The order is affirmed.

Pollak, J.

We concur:

McGuinness, P. J.

Jenkins, J.