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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

In re Kimberly I., a Person Coming Under  
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

Kimberly I.,

Defendant and Appellant.

A137154

(City & County of San Francisco  
Super. Ct. No. JW06-6833)

This case involves the legality of a traffic stop conducted by two Daly City police officers within the jurisdictional boundaries of the City and County of San Francisco. As a result of this stop, Kimberly I., a minor, was charged with two counts of felony assault with a deadly weapon against a police officer (Pen. Code, § 245, subd. (c)); one count of felony destruction of property (Pen. Code, § 594, subd. (b)(1)); one felony stolen vehicle charge (Veh. Code, § 10851, subd. (a)); and two counts of resisting, delaying, or obstructing a peace officer (Pen. Code, § 148, subd. (a)(1)).<sup>1</sup> Kimberly appeals from the orders of the juvenile court sustaining these charges, redeclaring her a ward of the court pursuant to Welfare and Institutions Code section 602, and placing her in out-of-home care. Specifically, Kimberly argues that the out-of-jurisdiction police officers did not have the legal authority to stop and detain her, and thus the related petition should have

<sup>1</sup> All statutory references are to the Penal Code unless otherwise indicated.

been dismissed. In addition, she claims that sustaining the resisting arrest charges was improper under the facts of the case. We affirm.

## **I. BACKGROUND**

At approximately 7:00 p.m. on January 22, 2011, Daly City police officers Eddy Klier and Don McCarthy were patrolling the Sunnydale area of San Francisco as part of a San Mateo County gang task force. While at the intersection of Santos and Velasco in San Francisco, the officers noticed a white Toyota Camry with two occupants pass in front of them traveling westbound on Velasco. After a license check revealed that the Camry's registration was suspended or expired, Officer Klier—who was driving—decided to stop the vehicle. The officers followed as the Camry turned left on Carrizal Street and quickly pulled into the driveway for 21 Carrizal, which was located at the intersection of Carrizal and Parque. Officer Klier pulled in behind the Camry, parking perpendicular to the rear of the Toyota, and activated the police car's emergency lighting equipment. Both officers got out of the car and approached the Camry, with Officer Klier moving to the driver's side and Officer McCarthy heading towards the passenger side. Neither officer had drawn his gun.

Officer Klier asked Kimberly, who was driving the Camry, for identification, but she stated that she did not have any on her. He then asked her to stop the car, but she responded that she could not do so because she did not have any keys for the ignition. Based on his experience, Officer Klier suspected at that point that the Camry might be an unreported stolen vehicle. He believed that Kimberly made the quick turn into the driveway in an attempt to avoid the police. He also noticed that the minor appeared “pretty nervous.” Officer Klier asked the minor to put her hands on her head and step out of the vehicle. He opened the driver's door and grabbed her left arm to escort her out of the Camry. However, as the minor began to comply—placing her hands on her head and left foot on the ground—the car (which was apparently still in drive) began to roll slowly forward.

Officer Klier told Kimberly to step on the brake and put the vehicle in park. At that point, the minor “lunged” back into the car, placing her left hand on the steering

wheel and right hand down near the gearshift. Simultaneously, the car rapidly accelerated forward three or four feet until it struck the house. Officer Klier, who had proceeded forward with the car, lunged back towards the minor in an attempt to pull her out of the Camry and stop any further movement of the vehicle. Observing that the car had “revved to its highest capability into the house” and that it did not “appear as though it was some sort of an error,” Officer Klier believed that the minor was attempting to flee. Both officers shouted at the minor numerous times to stop the vehicle. The minor said nothing to explain her actions.

Then, the Camry revved again and reversed back toward the police car. Kimberly’s hand was still near the gear shift, and Officer Klier could hear the engine rev and the tires screech as the car traveled in reverse. As he was still standing in the open driver’s side door, he felt his legs being pulled under. After the open door hit him in the back, Officer Klier released the minor and tried to pull himself up onto the door frame. He reported being “[a] little scared. A lot scared.” In his mind, “it was obvious that she was trying to get away and was not going to stop by us telling her to stop.” The Camry came to a sudden stop as it struck the front bumper of the patrol car, flinging Officer Klier three to four feet onto the hood of the police vehicle. At that point, Officer Klier heard gunshots.

When the car rapidly accelerated in reverse, Officer McCarthy had heard the “engine rev and tires peeling out” and had seen Officer Klier “start to get pulled down towards the ground as the vehicle [went], as [he went] along with the vehicle backwards.” Officer McCarthy, himself, was “spun around” by the vehicle as it went past, although he was not injured by the impact. When the Camry collided with the police car, its engine continued to rev, and the car was going back and forth shaking both vehicles. Officer McCarthy could see the minor moving her right arm towards the gear shift and could no longer see Officer Klier. He believed that the Camry “had either crushed Officer Klier or was in the process of crushing him.” He therefore fired his weapon “two or three” times at the minor in an attempt to contain the situation before any further potentially deadly harm could occur.

As Officer Klier heard the gunshots, he pushed himself off the hood of the car, kneeled on the ground, and drew his firearm on Kimberly. Since the car was still revving, Officer Klier asked Kimberly to show him her hands and then he removed her from the vehicle. Realizing she had been shot, he called for paramedics. During this time, Kimberly continued to say nothing regarding the reasons for her actions. The whole chain of events—from the time the minor was first contacted by Officer Klier until he removed her from the vehicle—took only 30 to 60 seconds.

As a result of this incident, the minor was charged with the six Penal Code violations delineated above, which included two felony counts of assault with a deadly weapon against a police officer and two counts of resisting arrest. Kimberly was formally detained on January 25, 2011, while in the hospital due to the injuries she sustained at the time of her arrest. The minor was released to home supervision pending disposition on February 16, 2011, and was actually discharged from the hospital and returned home on March 3. While jurisdiction was pending, the minor was re-detained on October 4, 2011, on felony charges of second degree robbery pursuant to section 211 and subdivision (c) of section 212.5. According to the related police report, Kimberly was involved in beating up a minor who was walking home from school and stealing her iPod Touch. Kimberly was formally detained with respect to this new petition on October 6, 2011. She turned 18 later that same month.

A motion to release Kimberly back to home detention was filed on the minor's behalf on November 1, 2011, based, in part, on her perceived need for better care with respect to the gunshot wounds she had sustained in January (including medical treatment for an open wound in her abdomen and physical therapy for her right hand/arm and left foot/ankle). The San Francisco Juvenile Probation Department (Probation) opposed release of the minor, noting that despite the in-home services previously available to her, Kimberly had violated curfew, missed appointments, and tested positive for marijuana before her October 4 robbery arrest. Nevertheless, the juvenile court granted the motion, releasing the minor to home detention on November 4. Kimberly was re-detained less than a month later, on November 23, 2011, for probation violations which included

testing positive for marijuana, violating curfew, violating a stay-away order related to her robbery charge, and wearing gang attire. Formal re-detention pending her contested jurisdictional hearing in the robbery matter took place on November 28.

The contested jurisdictional hearing on the robbery charge was conducted on December 5 and 6, 2011. At the conclusion of this hearing, the juvenile court found that the allegations were true and that Kimberly was a minor described by section 602 of the Welfare and Institutions Code. The court ordered the minor to remain in custody pending the jurisdictional hearing in this case. In the dispositional report prepared by Probation with respect to the robbery charge, the minor admitted to being impulsive and having a problem with marijuana. The probation officer noted that despite being on formal probation since age 13, having been committed twice to out-of-home placement, having been offered extensive services, and almost losing her life as a result of the gunshot wounds she sustained in January 2011, the minor had been unable to change her ways.<sup>2</sup>

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<sup>2</sup> Kimberly first came to the attention of the juvenile court in 2006 when, at age 12, she called a bomb threat in to her middle school. The minor had grown up in a home where she was a witness to severe domestic violence, including both physical and sexual abuse. As a child, she was, herself, twice the victim of sexual abuse. Kimberly has been diagnosed with ADHD, Post Traumatic Stress Disorder and Oppositional Defiant Disorder. She has also had significant issues with her sexual identity and struggles with poor impulse control, angry verbal outbursts, and disruptive behavior. As a result of the bomb threat, the minor was declared a ward pursuant to section 602 of the Welfare and Institutions Code and placed on formal probation in the home of her mother. Thereafter, she was placed in out-of-home care for failing to follow through with the conditions of her probation.

After rocky periods in two different residential treatment programs, Kimberly was returned to custody in May 2008 due to a physical confrontation with another resident. She was then returned home with a plan for multiple services and probation conditions to meet her many needs. Within two months, however, Kimberly was re-detained in juvenile hall based on her inability to follow the conditions of her probation, including drug usage, curfew violations, gang affiliation, and fire setting. Ultimately, the minor was placed at Seneca, a community treatment facility in October 2008. Kimberly maintained at Seneca through July 2010, although she struggled there. She went AWOL on three separate occasions and continued to have difficulty with threatening, disruptive, and assaultive behavior. In February 2010, Kimberly was psychiatrically hospitalized for a week due to suicidal behavior. This was reportedly her third suicide attempt. The

At the contested jurisdictional hearing in the present matter, held on January 23, 25, and 26, 2012, Officers Klier and McCarthy testified regarding the traffic stop as described above. John Grima, a retired auto mechanic for the San Francisco Police Department, testified that he inspected and drove the Camry after the January 22 incident and found it to be fully functional. In addition, John Evans, a San Francisco crime scene investigator, testified regarding elements of the scene that were consistent with the testimony of Officers Klier and McCarthy, such as a skid mark caused by rapid acceleration near the front wall of the house and the disruption of the dust on the hood of the police car. In defense, the minor offered a physicist specializing in accident reconstruction who opined that the evidence was consistent with the minor's version of events—that is, that she tried to comply with police directives, but that Officer Klier's "interference" caused "an unfortunate accident." At the conclusion of the hearing, the juvenile court found all of the allegations in the petition true and again declared Kimberly to be a minor described by section 602 of the Welfare and Institutions Code.

On February 7, 2012, Probation filed a dispositional report considering both of the minor's pending petitions and recommending placement with the Department of Juvenile Justice (DJJ). The matter was contested and continued repeatedly. On April 19, 2012, Kimberly's motion to reduce the robbery charge to a lesser included offense (in an attempt to decrease Kimberly's three strikes to two) was denied by the juvenile court. On April 23, 2012, the juvenile court granted the prosecution's motion requesting that Kimberly be housed in an adult detention facility pending disposition due to her disruptive behavior in juvenile hall. On October 18, 2012, minor's counsel filed an extensive opposition to Probation's DJJ recommendation, requesting that Kimberly instead be placed in a dual-diagnosis residential treatment facility located in El Monte, California, called Health Right 360. The contested disposition hearing was finally held on October 24 and 25, 2012. At the conclusion of that hearing, the juvenile court re-declared Kimberly a juvenile court ward, ordered her placed in out-of-home care, and

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minor went AWOL from Seneca for a fourth and final time in July 2010 and was out of placement at the time of her January 2011 arrest.

recommended placement at the El Monte residential treatment program. Kimberly was transported to Health Right 360 on November 8, 2012. A timely notice of appeal was filed on November 21, 2012.<sup>3</sup> Thereafter, an amended notice of appeal was filed on December 14, 2012.

## II. AUTHORITY TO DETAIN UNDER PENAL CODE § 782

After the prosecution rested its case in this matter, the minor moved for dismissal of the petition pursuant to Welfare and Institutions Code section 701.1, alleging that the Daly City police officers who detained her were operating outside of their jurisdictional boundaries and therefore without authority. The juvenile court denied the motion, citing section 782 which authorizes extra-jurisdictional police activity within 500 yards of a territorial boundary. Kimberly contends that the juvenile court erred in denying her motion to dismiss because the evidence was insufficient to establish the applicability of section 782, or any other statutory grant of extra-jurisdictional authority, to these proceedings.<sup>4</sup>

Section 701.1 of the Welfare and Institutions Code—which is analogous to the statute governing motions to acquit in criminal trials— authorizes the juvenile court to dismiss a wardship petition “after the presentation of evidence on behalf of the petitioner has been closed, if the court, upon weighing the evidence then before it, finds that the minor is not a person described by Section 601 or 602.” (Welf. & Inst. Code, § 701.1; *In re Anthony J.* (2004) 117 Cal.App.4th 718, 727.) We review the juvenile court’s denial

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<sup>3</sup> Kimberly’s initial notice of appeal filed on March 7, 2012, was dismissed by this court as premature (See *People v. K.I.* (April 4, 2012, A134870) [dismissal order].)

<sup>4</sup> In the court below, Kimberly additionally filed a motion to suppress, arguing that there was insufficient evidence to justify the warrantless traffic stop under the Fourth Amendment. The juvenile court also denied this motion. On appeal, the minor now argues that both her dismissal motion and her motion to suppress should have been granted based on the officers’ lack of authority to operate outside of Daly City. Since dismissal of the petition would necessarily obviate the need for any further discussion regarding the suppression of evidence and since Kimberly raised the extra-jurisdictional issue below only in connection with her motion to dismiss, we will analyze the claim in the context of the unsuccessful dismissal motion.

of a motion to dismiss under section 701.1 to determine whether substantial evidence exists to support the offenses charged in the petition. (*In re Man J.* (1983) 149 Cal.App.3d 475, 482.) “ ‘[W]e may not set aside the trial court’s denial of the motion on the ground of the insufficiency of the evidence unless it clearly appears that *upon no hypothesis whatsoever* is there sufficient substantial evidence to support the conclusion reached by the court below.’ ” (*Ibid.*, quoting *People v. Wong* (1973) 35 Cal.App.3d 812, 828, italics added.)

Generally speaking, a police officer’s authority is limited by the boundaries of the jurisdiction for which he or she is appointed. (*People v. Rogers* (1966) 241 Cal.App.2d 384, 387-388 (*Rogers*)). However, pursuant to section 782, “[w]hen a public offense is committed on the boundary of two or more jurisdictional territories, or within 500 yards thereof, the jurisdiction of such offense is in any competent court within either jurisdictional territory.” This authority to prosecute has been held to encompass the authority to investigate crimes occurring within 500 yards of a relevant jurisdictional boundary. (*Rogers, supra*, 241 Cal.App.2d at p. 388 “[s]ince authority to prosecute crime extends to offenses which take place just outside the boundaries of a particular jurisdiction, we believe that, *a fortiori*, authority to investigate crime extends beyond the territorial boundaries of a particular jurisdiction in the same manner and to the same extent”].)

In the present case, Officer Klier testified that “the intersection that we were at was well within that 500-yard limit.” In response to the minor’s objection for lack of foundation, the court asked for testimony on the question of “[h]ow does the officer know.” In response, Officer Klier went over the general requirements of section 782 and then stated: “Specifically, where we first noticed the driver, within my six years as a police officer with Daly City, I’ve made numerous arrests at that intersection and have had, actually, the City Planning Department testify in court, City Planning Department with the city of Daly City testify in San Mateo County Court as regards to the first closest Daly City address to the point of that intersection. And it’s come within 500 yards.” The minor then objected to the part of the answer containing hearsay, to which the court

responded: “Well, the objection is overruled. It goes to the state of mind of the officer as to why he was there and what he was doing. And he’s likewise referenced an objective fact. And the parties can obviously address it if they feel a need to.” No further evidence was offered to undercut Officer Klier’s statements with respect to the 500-yard limit.

Officer McCarthy, however, did testify regarding a map depicting the Daly City border which was offered by minor’s counsel and admitted into evidence, stating: “It is the border. It’s our most northern border to San Francisco . . . .” A review of this exhibit (a copy of which we have attached to this opinion as Appendix A), makes clear that the two intersections at issue—Velasco and Santos where the minor was initially observed and Carrizal and Parque where the minor was detained—are essentially equidistant from the Daly City border. Thus, evidence that one of the two intersections was “well within” the 500-yard limit is sufficient to support the conclusion that the entire incident took place within the permissible extra-territorial area prescribed by statute.

Under these circumstances, we find that substantial evidence supported the juvenile court’s determination that the Daly City police officers had the authority to stop, detain, and arrest Kimberly based on section 782. Thus, denial of the minor’s motion to dismiss was entirely proper. (Compare *People v. Williams* (1960) 177 Cal.App.2d 581, 582 [where evidence of city engineer as to location of boundary for purposes of section 782 was questioned for lack of foundation, there was no prejudice because location was properly established by map and police officer testimony]; *People v. Ford* (1947) 81 Cal.App.2d 580, 582, superseded by statute on other grounds as stated in *People v. Barnes* (1986) 42 Cal.3d 284 [application of section 782 established by police officer testimony].)<sup>5</sup>

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<sup>5</sup> Because we conclude that the actions of the Daly City police officers in this case were authorized by section 782, we do not consider any of the other possible jurisdictional bases advanced by the parties, including subdivisions (a)(2) and (a)(3) of section 830.1 (cross-jurisdictional activity permitted with prior consent or in cases involving immediate danger or escape).

### III. RESISTING ARREST CHARGES

As a result of the January 22, 2011, traffic stop, Kimberly was charged with, among other things, two counts of resisting, delaying, or obstructing a peace officer. (Pen. Code, § 148, subd. (a)(1).) A violation of subdivision (a)(1) of section 148 occurs when a person “willfully resists, delays, or obstructs any . . . peace officer . . . in the discharge or attempt to discharge any duty of his or her office or employment.” The offense is one of general intent. Thus, it proscribes “only the particular act (resist, delay, obstruct) without reference to an intent to do a further act or achieve a future consequence.” (*In re Muhammed C.* (2002) 95 Cal.App.4th 1325, 1329 (*Muhammed C.*); see also *In re V.V.* (2011) 51 Cal. 4th 1020, 1027 [“willfully” does not imply evil intent, but merely that the person knows what he/she is doing, intends to do what he/she is doing, and is a free agent].) A resisting arrest charge, however, is only appropriate when a police officer is lawfully performing, or attempting to perform, his or her official duties. Thus, “if a defendant is charged with violating section 148 and the arrest is found to be unlawful, a defendant cannot be convicted of that section.” (*People v. White* (1980) 101 Cal.App.3d 161, 166.)

Our standard of review in juvenile proceedings involving criminal behavior is the same as that required in adult criminal trials: We review the entire record in the light most favorable to the judgment to determine whether substantial evidence supports the charge, so that a reasonable trier of fact could find guilt beyond a reasonable doubt. (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 540; *In re Babak S.* (1993) 18 Cal.App.4th 1077, 1088-1089.) Further, “ ‘if the circumstances reasonably justify the trier of fact’s findings, the opinion of the reviewing court that the circumstances might also reasonably be reconciled with a contrary finding does not warrant reversal of the judgment.’ ” (*In re V.V.*, *supra*, 51 Cal.4th at p. 1026, quoting *People v. Medina* (2009) 46 Cal.4th 913, 925, fn. 2; see also *In re Ryan N.* (2001) 92 Cal.App.4th 1359, 1372.)

In the present case, Kimberly advances two bases for concluding that her resisting arrest charges should not have been sustained by the juvenile court. First, she asserts that her arrest was unlawful because it was effected through the use of excessive force.

Second, she claims that there was insufficient evidence that she “willfully” resisted the police officers in violation of section 148. Viewing the record in the light most favorable to the judgment, we find both contentions without merit.<sup>6</sup>

**A. Excessive Force**

When a peace officer employs reasonable force to make a lawful arrest, the officer is acting in the performance of his or her duties. (*People v. Adams* (2009) 176 Cal.App.4th 946, 952.) Conversely, a peace officer is not engaged in the performance of his or her duties if that officer uses excessive force in making the arrest. (*People v. Delahoussaye* (1989) 213 Cal.App.3d 1, 7 (*Delahoussaye*); *People v. Olguin* (1981) 119 Cal.App.3d 39, 45-46.) Whether a police officer has used excessive force in arresting an individual is a “pure question of fact” reviewable for sufficient evidence. (*Delahoussaye, supra*, 213 Cal.App.3d at p. 8.)

Here, we conclude that the record contains sufficient evidence that the force used in this case was reasonable. When Officer Klier initially contacted Kimberly, he used only verbal commands. Based on her responses and his experience, Officer Klier concluded that the Camry was likely stolen. Although he grabbed her arm when he asked her to exit the vehicle, the pressure he used was “[n]ot much” and his intent was simply to help “escort her out of the vehicle.” When the car accelerated forward and hit the house, Officer Klier “proceeded forward with the movement of the vehicle” and still had his hand on the minor. At that point, he yelled repeatedly for her to stop the car. He also attempted to pull her out of the car because he believed that she was trying to flee and that the car was going to “stay in a frontward drive motion.” When the car quickly accelerated in reverse and the driver’s side door hit him in the back, Officer Klier let go of the minor and grabbed the top of the door frame in an attempt to protect himself from injury. He was, at this point, “[a] lot scared” because he felt “it was obvious that she was

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<sup>6</sup> Kimberly also argues that the resisting arrest charges were improper because the Daly City police officers who arrested her were operating unlawfully outside of their jurisdictional boundaries. Since we have previously addressed and rejected this argument, we need not consider it further in the specific context of these charges.

trying to get away and she was not going to stop . . . .” He felt that he could be “severely injured, based on the movement of the vehicle.”

In the meantime, Officer McCarthy had also concluded that the vehicle was likely stolen. When the car rapidly accelerated into the house, he was concerned that it might have hit several onlookers, but felt that they were “going to be able to contain them right there, once they couldn’t go forward any further.” When the car then rapidly accelerated in reverse, Officer McCarthy heard the “engine rev and tires peeling out” and he saw Officer Klier “start to get pulled down towards the ground as the vehicle [went], as [he went] along with the vehicle backwards.” Officer McCarthy yelled stop repeatedly in his loudest voice. He, himself, was “spun around” by the vehicle as it went past, although he was not injured by the impact. The Camry then collided with the police car, its engine continued to rev, and the car was going back and forth shaking both vehicles. Officer McCarthy could see the minor moving her right arm towards the gear shift, and he believed based on the unfolding of events that the minor was trying to “[g]et out of there.” Moreover, he could no longer see Officer Klier and believed that the Camry “had either crushed Officer Klier or was in the process of crushing him.” It was at that point that Officer McCarthy fired his weapon “two or three” times at the minor. He stopped when the engine stopped revving, and the minor appeared to stop her actions. Officer McCarthy testified that he did not use any other available, but less lethal, weapons such as a baton or pepper spray because “[t]hose options would not have stopped the vehicle, would not have stopped the suspect from injuring Officer Klier.”

Finally, when the Camry hit the police car, Officer Klier was flung three or four feet onto the hood of the police car. He then quickly pushed himself off of the car, knelt on the ground and pulled his firearm, aiming at the minor. Officer Klier did not deploy less lethal force at that time based on “the movement of the vehicle” and “the quickness of the incident escalating.” Further, he knew that Officer McCarthy had discharged his firearm, and did not know what else Officer McCarthy might have seen in addition to Kimberly “trying to flee.”

To the extent the officers used deadly force in this case, the record reflects that it was a reasonable response due to the deadly force being employed by the minor at the time of the incident. (*People v. Clark* (1982) 130 Cal.App.3d 371, 380 [deadly force may be used to repel an attack which is itself deadly].) Other options suggested by Kimberly—such as shooting the tires or using a taser or pepper spray—were less likely to contain the situation before Officer Klier, or an innocent bystander, might have been seriously injured or killed. Although Kimberly claims that she was not trying to resist, the officers could reasonably conclude under the circumstances that their lives were at risk and that the safety of others was also in question. In sum, substantial evidence supports the determination that the minor’s arrest was lawfully made without the use of excessive force.

**B. *Sufficiency of the Evidence***

As a final matter, Kimberly argues that there was insufficient evidence to support the juvenile court’s conclusion that she “willfully” resisted, delayed, or obstructed Officers Klier and McCarthy in the discharge of their duties in violation of subdivision (a)(1) of section 148. According to the minor, her actions that day—beginning to step out of the car, attempting (albeit unsuccessfully) to put the car in park, and trying (again unsuccessfully) to stop the vehicle— showed compliance with, rather than resistance to, police authority. While that was certainly her theory of the case, there was substantial evidence to support the prosecution’s contrary contention that the minor was trying to flee from the officers.

Both Officer Klier and Officer McCarthy testified that they believed the minor was attempting to escape. According to Officer Klier, it was “obvious that the vehicle was revved to its highest capability into the house,” and this did not appear to be error, but rather the result of the minor’s lunge back into the vehicle. Further, when the minor accelerated in reverse, it was again “obvious” to Officer Klier that she was “trying to get away.” Similarly, Officer McCarthy testified that, immediately before firing his weapon, he believed the minor was trying to “[g]et out of there.” In addition, a witness who was standing in front of the house at 21 Carrizal at the time of the incident stated in an

interview that same evening: “I guess the girl panicked, hit the gas and hit the side of the car. Looked like she was trying to get away.” This same witness stated that the driver of the Camry “punched it” and “smashed” into the house, and that later the “white car went into reverse very fast and punched it full throttle.”

Moreover, the physical evidence corroborated the prosecution’s version of events. A skid mark at the scene attested to the rapid acceleration of the vehicle near the front wall of the house. A witness saw this skid mark made when the minor accelerated in reverse. Further, John Grima, the mechanic who inspected the Camry, testified that a driver would not be able to shift gears without first putting his or her foot on the brake, a mechanical fact which undercut the minor’s argument that her rapid acceleration in both forward and reverse was accidental. Although the minor’s expert testified that the minor would have only had to push a button on the gear shift to shift from forward to reverse, he acknowledged that he had not inspected or driven the car.

In sum, the record contained substantial evidence that the minor’s actions in this case amounted to willful resistance. In sustaining the two resisting arrest charges, the juvenile court clearly believed that the scenario advanced by the prosecution was the more reasonable of the two interpretations offered by the parties. Where the juvenile court has so determined, we decline to hold otherwise. (Compare *Muhammed C.*, *supra*, 95 Cal.App.4th at p. 1330 [appellate court must accept the trial court’s interpretation of the evidence in support of the trial court’s findings rather than the alternative explanation endorsed by appellant]; *In re Ryan N.*, *supra*, 92 Cal.App.4th at p. 1372 [appellate court is “bound by the findings of the trier of fact where it has rejected a hypothesis pointing to innocence and there is evidence to support its implied finding that guilt is the more reasonable of the two hypotheses”].)

#### **IV. DISPOSITION**

The judgment is affirmed.

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Reardon, J.

We concur:

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Ruvolo, P. J.

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Rivera, J.

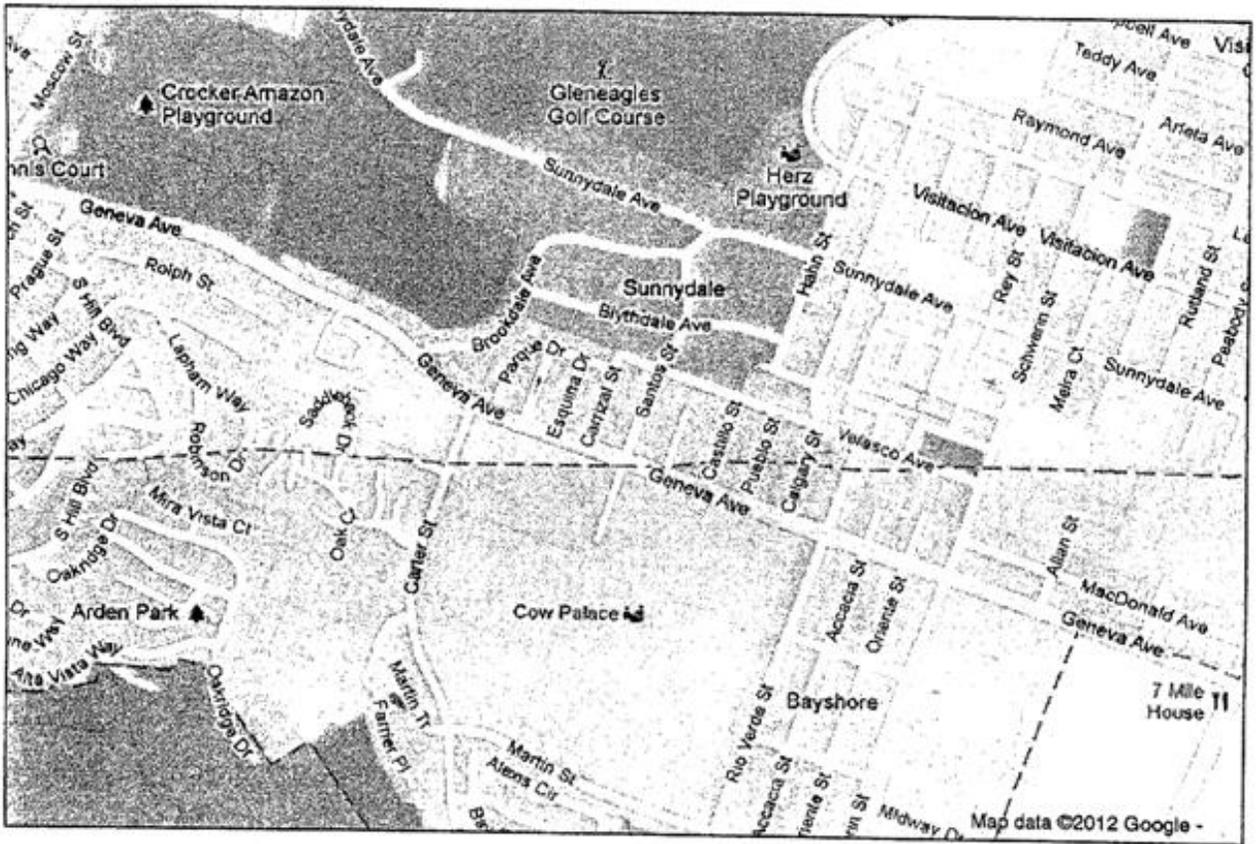
APPENDIX A

daly city ca - Google Maps

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Google

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