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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re ALEXANDER X., a Person Coming
Under the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

ALEXANDER X.,

Defendant and Appellant.

A146311

(San Mateo County
Super. Ct. No. 83645)

Alexander X. appeals from a dispositional order issued pursuant to Welfare & Institutions Code section 602 after the juvenile court sustained an allegation of felony vandalism, reduced to a misdemeanor. Alexander contends the evidence was insufficient to prove the charged offense. Substantial evidence supports the juvenile court's findings, so we affirm.

BACKGROUND

Darren Fong and Alexander knew each other from having attended the same high school in Millbrae. Fong was in college at the time of these events, but he and Alexander were Facebook friends and corresponded on Facebook.

Around midnight on January 2, 2014, Alexander and Fong exchanged a series of Facebook messages about what Fong described as a joke he had posted on Alexander's

Facebook wall, a photograph of a man in a short sleeve white button-up shirt with a pocket protector, a bow tie, thick-rimmed glasses and slicked black hair, captioned “ ‘Suck my 3.14.’ ” Fong provided a four-page printout of the messages he and Alexander exchanged between 12:15 and 2:57 a.m. on January 3.

Fong testified that he and Alexander “chatted briefly about I had, you know, posted a joke on his wall. He thought it was immature because he told me to act your age.” Fong had not intended the post as hostile, but he acknowledged that Alexander could have perceived it that way. Fong knew that Alexander had gone to a friend’s house earlier that night “to confront [the friend’s] mom over a matter,” so he asked Alexander, “Oh, are you going to come to my house now?”

After he and Alexander finished exchanging messages, Fong played video games in the theater room at the front of his house. His car was parked at the curb, “close to the same wall that my theater room is next to.” Around 2:00 a.m. Fong heard a series of three or four snapping sounds outside the window, so he grabbed a flashlight and went outside to investigate. Within seconds a white Honda CRV parked across the street about 60 to 100 feet from Fong’s car drove away. Fong did not see the driver, but he had seen the car around school. He quickly checked his car for visible damage, but saw none.

Fong then reviewed footage from his security cameras. It showed the CRV “drive down my street, then park across the street like on to the—so my house is like on a corner. We have one street going this way, and one street going this way. I saw him come down the street, park, stop there a little bit. Then I saw the car leave, then come back, circled around the block, then park on the other side of my house.” The route brought the CRV past Fong’s car. A copy of the surveillance videotape was submitted as evidence.

At 2:57 a.m. Fong sent Alexander a photograph of the white CRV and asked if he had been to Fong’s house that night. Alexander messaged back, “ ‘It looks like mine, I don’t recognize the setting.’ ” Later some of Fong’s friends told him the CRV belonged to Alexander.

The next afternoon Fong discovered a hole and four small cracks in his windshield and cracks in a plastic pane at the bottom of the windshield. Fong believed the damage was caused by BB pellets because the hole exhibited “the classic spider webbing and the perfect circle around the initial impact.” He had experience firing BB pellets from air guns and had seen the spider webbing effect BB pellets have on glass and plastic. Fong’s father obtained an estimate of \$1,200 to repair the windshield.

Burlingame Police Officer Brett Leonard investigated Fong’s report that afternoon. He saw three marks on Fong’s windshield that appeared to be caused by glancing blows from an unknown object, a small round indentation with spidering around it on the windshield, and damage to plastic molding on the lower passenger side of the windshield. Based on his experience, he recognized the circular indentation in the windshield as being caused by “a pellet or a BB like projectile.”

Officer Leonard also viewed Fong’s surveillance footage. He described how the white CRV approached from westbound Sanchez Street and “turned in front of the residence. It slowed approximately two feet across from the victim’s vehicle momentarily parked and continued north on Cabrillo, then circled around coming west on Sanchez, parked for about two minutes, turned the lights off, remained parked 50 to 60 [feet] south of the victim’s vehicle. I saw victim Fong exit his residence, see the car to the south of him. The car took off once the victim came out.” Officer Leonard determined the car in the video matched the description of a “track flyer” distributed by San Bruno police about two months earlier describing a white SUV with European style license plates on the front bumper, belonging to Alexander.

San Bruno Police Officer Lauren Meyer testified that a month before Fong’s car was vandalized she made contact with Alexander, searched his white Honda CRV and found two BB guns under the driver’s seat. Officer Meyer said the car in Fong’s surveillance photograph resembled Alexander’s car.

Burlingame Police Officer Todd Chase interviewed Alexander on January 7. Alexander told Officer Chase that he and Fong were Facebook friends and that there had

been some friction between them over a derogatory picture and comments Fong posted. He denied vandalizing Fong's car and said he was at home the night of the incident. Asked if anyone else had driven his car that night, Alexander told Officer Chase that "nobody drives his car." He admitted that the car in Fong's surveillance video resembled his.

After the interview Officer Chase looked at Alexander's CRV in the student parking lot. It matched the car in Fong's surveillance videotape. He testified: "And there [are] some distinctive traits to that vehicle that you can actually see in the video surveillance. One, the rectangular European style license plate featured on that vehicle. It was also present the day that I looked at the vehicle in the San Mateo parking lot. The vehicle also has a spare tire that's mounted on the back, I believe it's the passenger rear of the vehicle that is very distinctive[,] it can be seen in the video, and the vehicle being white in color. Those are three traits that are identifying matches [to] what is featured in the tracks flyer that was put out by San Bruno Police Department as well as the video surveillance."

Defense counsel argued there was insufficient evidence to prove Alexander was the perpetrator. The juvenile court disagreed. It ruled: "[t]here is clearly some antagonism going on. It seems too much of a coincidence to me that within a very short time after that a car, which I conclude was [Alexander's], we're going back and forth and saying it was just like his or whatever. Then we have Officer Chase describing specifics about the car that also match, so I conclude that was his car. The coincidence of that car being there, a car which previously had the right kind of weapon in it so shortly after a confrontation of sorts between the two people, I think to me that establishes proof beyond a reasonable doubt. Although certainly less than in some cases and it is circumstantial, but I think it's sufficient but certainly [I] am less sympathetic to Mr. Fong than I am to some other victims. Certainly he is contributory to this whole thing. . . . [¶] But none the less, I do find the proof sufficient based on the circumstantial evidence which seems to rise beyond simply the coincidence to prove beyond a reasonable doubt."

The court declared Alexander a ward of the court but agreed to terminate the wardship and probation once Alexander paid full victim restitution and completed two days in a community care program. The court granted Alexander’s motion to reduce the felony vandalism allegation to a misdemeanor. Alexander filed a timely notice of appeal.

DISCUSSION

Alexander argues the evidence was insufficient to establish the identity of the person who vandalized Fong’s car, what caused the damage, or when it occurred. This is particularly so, he asserts, because (1) the surveillance video “shows no kinetic movement between the car passing Fong’s car and his windshield and no indication of who was behind the wheel”; and (2) Fong saw no damage when he checked his car immediately after the white CRV drove away. His argument is meritless.

A. Legal Standards

On an appeal challenging the sufficiency of the evidence to support a juvenile court judgment sustaining a petition under section 602, “[t]he critical inquiry is ‘whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’ [Citation.] An appellate court ‘must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence—that is, evidence which is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.’ [Citations.]” (*In re Ryan N.* (2001) 92 Cal.App.4th 1359, 1371, italics omitted.)

“ ‘This court must view the evidence in a light most favorable to respondent and presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence. [Citation.] If the circumstances reasonably justify the trial court's findings, reversal is not warranted merely because the circumstances might also be reasonably reconciled with a contrary finding. [Citations.] The test on appeal is whether there is substantial evidence to support the conclusion of the trier of fact; it is not whether guilt is established beyond a reasonable doubt.’ ” (*In re Ryan N., supra*, 92 Cal.App.4th

at p. 1372.) Thus, “in juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination of whether, on the entire record, there is any substantial evidence, contradicted or uncontradicted, which will support the decision of the trier of fact.” (*Id.* at p. 1373.)

B. Analysis

The prosecution presented substantial circumstantial evidence to prove Alexander vandalized Fong’s car. Fong testified that shortly before the incident he provoked Alexander by posting derogatory pictures and captions on Facebook. Alexander acknowledged to Officer Chase that the post generated friction between them. Although motive is not an element of vandalism, “[i]t is elementary, evidence of motive to commit an offense is evidence of the identity of the offender. [Citations.] In *People v. Argentos*, *supra*, 156 Cal. 720, 726 the court said: [¶] ‘In a case where the identity of a person who commits a crime is attempted to be proven by circumstantial evidence, such as in the case at bar, evidence of a motive on the part of a defendant charged is always a subject of proof, and the fact of motive particularly material.’ . . . Evidence showing jealousy, quarrels, antagonism or enmity between an accused and the victim of a violent offense is proof of motive to commit the offense.” (*People v. Daniels* (1971) 16 Cal.App.3d 36, 46, italics omitted.)

There was also evidence that Alexander had BB guns in his CRV a month before this incident. Both Fong and Officer Leonard testified that the hole surrounded by spider webbing on the windshield was typical of damage from BB gun pellets. The four blemishes on the windshield and the damaged plastic molding beneath it were consistent with the sounds Fong heard just before he saw the white CRV drive away.

Officers Chase and Meyer testified that Alexander’s car matched the car in Fong’s surveillance video and the car with distinctive front plates pictured in the police track flyer that identified Alexander as the owner. Alexander himself testified that no one else ever drove his car.

Taken together, this evidence supports the juvenile court's determination that Alexander vandalized Fong's car. Alexander speculates that Fong's windshield could have been damaged by some other means, such as weather changes, road debris or improper installation, or that the damage could have occurred later, between the time Fong first checked his car that night and the next afternoon when he discovered it. But "[i]f the circumstances reasonably justify the trial court's findings, reversal is not warranted merely because the circumstances might also be reasonably reconciled with a contrary finding. . . . [T]his 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." (*In re Ryan N., supra*, 92 Cal.App.4th at p. 1372.) That is the case here. The juvenile court's findings are supported by substantial evidence.

DISPOSITION

The judgment is affirmed.

Siggins, J.

We concur:

Pollak, Acting P.J.

Jenkins, J.

In re Alexander X., A146311