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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re J.R., a Minor Coming Under the
Juvenile Court Law.

B237259

THE PEOPLE,

(Los Angeles County
Super. Ct. No. NJ26207)

Plaintiff and Respondent,

v.

J.R.,

Defendant and Appellant.

Appeal from an order of wardship of the Superior Court of Los Angeles County.
Heidi W. Shirley, Commissioner. Affirmed.

Holly Jackson, under appointment by the Court of Appeal, for Defendant and
Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillete, Chief Assistant Attorney
General, Lance E. Winters, Senior Assistant Attorney General, Susan Sullivan Pithey and
Esther P. Kim, Deputy Attorneys General, for Plaintiff and Respondent.

* * * * *

J.R., a minor, appeals from an adjudication of the juvenile court finding he committed one count of second degree robbery (Pen. Code, § 211), one count of conspiracy to commit a crime (Pen. Code, § 182, subd. (a)(1), and declaring him a ward of the court pursuant to Welfare and Institutions Code section 602. J.R. contends there is insufficient evidence to support the finding he aided and abetted the robbery. We conclude there is sufficient evidence to sustain the adjudication and therefore affirm.

BACKGROUND

On the afternoon of September 29, 2011, Alida George was walking home from the grocery store, carrying several grocery bags, in the city of Lynwood. As she walked down Carlin Avenue, Ms. George was approached by two young Hispanic males. One of them grabbed or hit her, knocking her down. A necklace she was wearing was also yanked from her neck. Ms. George injured her knee in the fall and suffered several contusions. When she tried to get up, she saw the two males running away in the direction of Atlantic Boulevard.

Joe Battle, Sr., witnessed the incident. Mr. Battle was standing on the sidewalk talking to his sister when his attention was drawn across the street by the sound of a voice or yelling. He saw three Hispanic males standing near an older Hispanic woman. He saw one of the young men, whom he later identified as minor J.M., hit the woman or make a quick grabbing motion toward her face, knocking her to the ground. Mr. Battle saw two of the young men start running away, but does not recall what the third one did. Mr. Battle yelled, "Hey, stop," and started chasing the one who had struck the woman. Within a minute or so of chasing J.M., Mr. Battle saw an undercover officer, wearing a badge, pull up in a car, point a gun at J.M., and take J.M. into custody. Mr. Battle spoke with the deputies who arrived on the scene to explain what he had witnessed. He saw that J.M.'s older brother O.M. had also been taken into custody. Neither J.M. nor O.M. is a party to this appeal.

Dennis Parker, the investigating detective from the Los Angeles County Sheriff's Department, interviewed J.R. after he was taken into custody the day after the incident. J.R. initially denied any involvement in the robbery of Ms. George. Detective Parker told

J.R. he had already interviewed J.M. and O.M., and that he wanted to hear J.R.'s version of the incident. J.R. then admitted he saw J.M. and O.M. that day, that they told him they "[were] going to jack someone," that he did not want any trouble, but that he got into the car and drove with them to Lynwood.

J.R. admitted the three of them decided to rob someone. The plan was to take what they stole to the mall to sell it, and split the proceeds. J.R. said he did not know how much money J.M. and O.M. planned on giving him. J.R. told Detective Parker they parked the car on a side street next to Carlin Avenue, and he waited in the car with the keys while J.M. and O.M. left to commit the robbery. At some point, J.R. got out of the car and stood on the corner and watched J.M. and O.M. rob Ms. George. He then saw them run and be taken into custody, so he returned to the car and waited until everyone left the scene. J.R. then drove the car and returned it to another of J.M. and O.M.'s brothers.

A Welfare and Institutions Code section 602 petition was filed charging J.R. with two counts: (1) second degree robbery (Pen. Code, § 211), and (2) conspiracy to commit a crime (Pen. Code, § 182, subd. (a)(1)). J.R. denied the allegations of the petition. Following testimony from the victim Ms. George, the witness Mr. Battle, and Detective Parker, as well as lengthy argument from counsel, the court sustained both counts and adjudged J.R. a ward of the court. (Welf. & Inst. Code, § 602.) J.R. was committed to the custody of the probation department to be placed in a long-term camp placement. The juvenile court ordered maximum confinement of six years with 42 days predisposition credit. This appeal followed.

DISCUSSION

The substantial evidence test applicable to the review of a criminal conviction also governs review of a juvenile court's finding in a juvenile proceeding. (*In re Roderick P.* (1972) 7 Cal.3d 801, 808-809; accord, *In re Sylvester C.* (2006) 137 Cal.App.4th 601, 605.) The reviewing court must determine "whether the record contains any substantial evidence tending to support the finding of the trier of fact, and in considering this question we must view this evidence in the light most favorable to the finding.

[Citation.] The test is not whether guilt is established beyond a reasonable doubt.

[Citations.] ¶¶ “ [T]he appellate court is required to determine whether a reasonable trier of fact could have found that the prosecution sustained its burden of proving the defendant guilty beyond a reasonable doubt [citations]. . . . [I]n determining whether the record is sufficient in this respect the appellate court can give credit only to ‘substantial’ evidence, i.e., evidence that reasonably inspires confidence and is ‘of solid value.’ ” ” ” (In re Roderick P., at pp. 808-809.) Indulging all reasonable inferences in favor of the judgment as we are required to do, we conclude there is substantial evidence to support the finding that J.R. aided and abetted a robbery.

“The ‘act’ required for aiding and abetting liability need not be a substantial factor in the offense. “Liability attaches to anyone ‘concerned,’ however slight such concern may be, for the law establishes no degree of the concern required to fix liability as a principal.” [Citation.] [Citation.] ‘It has been held, therefore, that one who is present for the purpose of diverting suspicion, or to serve as a lookout, or to give warning of anyone seeking to interfere, or to take charge of an automobile and to keep the engine running, or to drive the “getaway” car and to give direct aid to others in making their escape from the scene of the crime, is a principal in the crime committed. [Citations.]’ [Citation.]” (People v. Swanson-Birabent (2003) 114 Cal.App.4th 733, 743-744; see also People v. Garcia (2008) 168 Cal.App.4th 261, 273 [factors properly considered “in determining ‘whether one is an aider and abettor include presence at the scene of the crime, . . . companionship, flight, and conduct before and after the crime’ ”]; People v. Nguyen (1993) 21 Cal.App.4th 518, 531-532 [perpetrator need not expressly communicate criminal purpose that is apparent from the circumstances as “[a]iding and abetting may be committed ‘on the spur of the moment,’ . . . as instantaneously as the criminal act itself”].)

There was solid evidence that J.R. participated in a plan with J.M. and O.M. to rob a victim, sell the proceeds of the crime and share the money obtained, as well as evidence that J.R.’s role in the robbery was to remain in charge of the car in which the three were going to flee the scene. There was no contradictory evidence presented by the defense.

The evidence in the record is more than adequate to support the court's finding sustaining the counts against J.R. It is well established that one who acts in the capacity of a driver of a "getaway" vehicle is guilty of aiding and abetting. (*People v. Swanson-Birabent, supra*, 114 Cal.App.4th at pp. 743-744.) Simply because J.M. and O.M. were apprehended before they were able to return to the car where J.R. was waiting to drive them from the scene does not diminish J.R.'s role.

DISPOSITION

The order of wardship is affirmed.

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GRIMES, J.

WE CONCUR:

RUBIN, ACTING P. J.

SORTINO, J. *

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.