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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re SPENCER T., a Person Coming
Under the Juvenile Court Law.

2d Juv. No. B238660
(Super. Ct. No. 2011015313)
(Ventura County)

THE PEOPLE,

Plaintiff and Respondent,

v.

SPENCER T.,

Defendant and Appellant.

A juvenile court petition alleged that Spencer T. (Spencer) received stolen property (Pen. Code, § 496, subd. (a)) and possessed a weapon on school grounds (§ 626.10, subd. (a)).¹ Spencer admitted possession of a weapon. The juvenile court sustained the petition on the receiving stolen property count. On appeal Spencer contends the juvenile court erred in overruling his corpus delecti objection. We affirm.

¹ All statutory references are to the Penal Code.

FACTS

On January 23, 2011, at 4:00 p.m., two boys, Guy L. (Guy) and Austin C., (Austin) were skateboarding at Cerritos Middle School in Thousand Oaks. Each boy had a video camera. They placed their cameras on a table in a lunch area at the school. Six boys were sitting at another table 15 to 20 feet away.

Guy and Austin took a break from skateboarding to get a drink from a nearby vending machine. Guy heard a loud noise. When he turned around, he saw someone running away with his camera. When Austin heard the loud noise, he turned around to see someone carrying away his camera bag. The loud noise was his camera falling out of his bag and breaking on the ground. The boys who had been sitting at the table scattered as they ran away.

Guy was "pretty sure" Spencer was one of the boys sitting at the table. But he did not see Spencer running away with the camera. Austin saw Spencer sitting at the table, but he did not know whether Spencer was still there when the camera was stolen.

Ventura County Deputy Sheriff Michael Ferguson interviewed Spencer at the school. The trial court allowed Ferguson to testify over Spencer's corpus delecti objection.

Spencer told Ferguson that he went to the school to meet some friends. When he got there, his friends were running away, so he ran away, too. He met with them later that day. One of his friends had a backpack with a camera in it. They talked about having stolen it from the school that afternoon. The next day Spencer went to a wooded area just south of the school and picked up the backpack with the camera in it. He took the camera to a local park and threw it away. Spencer took Ferguson to the place where he threw the camera away, but the camera was not there.

Defense

Spencer testified on his own behalf. He said he lied to Ferguson about having possessed the camera and throwing it away. He said he wanted to protect his friends.

DISCUSSION

I.

Spencer contends the trial court erred in overruling his corpus delecti objection.

The prosecution has the burden of proving the corpus delecti of the crime; that is, the injury, loss or harm, and the criminal agency as its cause. (*People v. Alvarez* (2002) 27 Cal.4th 1161, 1168.) The prosecutor cannot satisfy this burden by relying exclusively on the extrajudicial statements, confessions or admissions of the defendant. (*Id.* at p. 1169.) The rule is intended to assure that one cannot be falsely convicted, by his or her untested words alone, of a crime that never happened. (*Ibid.*)

Section 496, subdivision (a) provides in part: "Every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in a county jail for not more than one year, or imprisonment"

In every theft of a tangible item, someone receives stolen property. That person may be only the thief himself. The thief himself can be convicted of receiving stolen property. (§ 496, subd. (a) ["A principal in the actual theft of the property may be convicted pursuant to this section."]; (*People v. Garza* (2005) 35 Cal.4th 866, 875.) The identity of the person who commits the crime is not an

element of the corpus delicti. (*People v. Ledesma* (2006) 39 Cal.4th 641, 721.) Thus it is sufficient to show only that someone has received stolen property. That was accomplished when the prosecution proved the theft of a camera. Spencer's statements were properly admitted into evidence.

The judgment is affirmed.

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GILBERT, P.J.

We concur:

YEGAN, J.

PERREN, J.

Donald D. Coleman, Judge
Superior Court County of Ventura

Stephen P. Lipson, Public Defender and Cynthia Ellington, Deputy Public Defender, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Michael R. Johnsen, Supervising Deputy Attorney General, Dana M. Ali, Deputy Attorney General, for Plaintiff and Respondent.