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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

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

B238955
(Los Angeles County Super. Ct.
No. KJ35902)

THE PEOPLE,

Plaintiff and Respondent,

v.

CONNOR S.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County, Merrill L. Toole, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Bruce G. Finebaum, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Chung L. Mar and Viet H. Nguyen, Deputy Attorneys General, for Plaintiff and Respondent.

Minor Conner S. appeals from the juvenile court's order of December 21, 2011, declaring him a ward of the court under Welfare and Institutions Code section 602, after sustaining an allegation he committed the crime of resisting, obstructing, or delaying a peace officer in the performance of his duties (Pen. Code, § 148, subd. (a)(1)),¹ a misdemeanor. He was placed home on probation. Minor contends substantial evidence does not support the sustained allegation. We affirm the judgment.

FACTS

Prosecution Case

On November 6, 2010, City of Pomona Police Officer Thomas de la Vega responded to the location of a reported vandalism, where he observed several male juveniles. He arrived in a black and white police car and wore a police uniform. It was after 10:00 p. m., but the area was illuminated by street lighting and the patrol car's lights. The juveniles ran away when Officer Vega activated the patrol car's red and blue overhead light and identified himself as an officer. Officer Vega followed minor on foot, because minor matched the description of one of the vandals—a male Hispanic juvenile wearing a black, hooded sweatshirt. Before he fled, minor made eye contact with Officer Vega. Officer Vega, who was eight feet from minor, shouted, "Police." Minor turned and Officer Vega instructed minor to "Stop." Minor continued running. Officer Vega again made visual contact with minor and yelled, "Police, freeze." The area of the chase was quiet enough to hear minor's footfalls. Minor acknowledged Officer Vega by periodically looking back at him as he ran. Because minor kept one hand in his pants' pocket, Officer Vega yelled at minor to show his hands. Minor threw a large metal object onto the street and kept running. Officer Vega tackled minor to the ground and

¹ All statutory references are to the Penal Code, unless otherwise indicated.

handcuffed him, stating minor was being detained for a vandalism investigation. No vandalism was found, but Officer Vega recovered a four-inch, metal folding knife.²

Minor was arrested for delaying Officer Vega's investigation. Minor stated he saw Officer Vega when Officer Vega arrived on the scene but denied hearing Officer Vega's commands to stop and denied seeing Officer Vega chase him. Minor stated he ran because the other juveniles ran and he was in possession of a knife.

Had minor not fled the scene, Officer Vega would have: told minor why he was there; proceeded to investigate the vandalism report; found no vandalism; and let minor go.

Minor's Case

No defense evidence was presented.

DISCUSSION

Substantial Evidence

Minor contends the finding he resisted or delayed a police officer in violation of section 148, subdivision (a)(1), is not supported by substantial evidence because Officer Vega did not act lawfully in detaining him. We disagree with the contention.

“Our review of the [minor's] substantial evidence claim is governed by the same standard applicable to adult criminal cases. [Citation.] ‘In reviewing the sufficiency of the evidence, we must determine “whether, after viewing 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.]’ [Citation.] “[O]ur role on appeal is a limited one.” [Citation.] Under the substantial evidence rule, we must

² The petition contained no allegation concerning minor's possession of the knife.

presume in support of the judgment the existence of every fact that the trier of fact could reasonably have deduced from the evidence. [Citation.] Thus, 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. [Citation.] [Citation.]” (*In re V.V.* (2011) 51 Cal.4th 1020, 1026.)

Under section 148, subdivision (a)(1), it is a crime to “willfully resist[], delay[], or obstruct[] any . . . peace officer . . . in the discharge or attempt to discharge any duty of his or her office or employment[.]”

“The legal elements of [section 148, subdivision (a)(1)] are as follows: “(1) the defendant willfully resisted, delayed, obstructed a peace officer, (2) when the officer was engaged in the performance of his or her duties, and (3) the defendant knew or reasonably should have known that the other person was a peace officer engaged in the performance of his or her duties.” [Citation.]” (*Yount v. City of Sacramento* (2008) 43 Cal.4th 885, 894-895 (*Yount*)). “[T]he officer [must] be *lawfully* engaged in the performance of his or her duties.” (*Id.* at p. 894.) “[A] defendant cannot be convicted of an offense against a peace officer “engaged in . . . the performance of . . . [his or her] duties” unless the officer was acting lawfully at the time the offense against the officer was committed. [Citations.]” (*In re Manuel G.* (1997) 16 Cal.4th 805, 815 [minor found in violation of section 69 for attempting by means of threats to deter a police officer from performing his duties], emphasis omitted.)

“A police officer may detain a suspect for questioning “when the circumstances indicate to a reasonable man in a like position that such a course of action is called for in the proper discharge of the officer’s duties The good faith suspicion which warrants an officer’s detention of a person for investigative reasons is necessarily of a lesser standard than that required to effect an arrest Where there is a rational belief of criminal activity with which the suspect is connected, a detention for reasonable investigative procedures infringes no constitutional restraint.” [Citations.]” (*Dawkins v. Los Angeles* (1978) 22 Cal.3d 126, 133.)

Substantial evidence supports the sustained allegation. The area was sufficiently quiet and illuminated for minor to see and hear Officer Vega. It was evident Officer Vega was a police officer—he arrived in a marked patrol car, was in uniform, and announced he was a police officer. Minor made eye contact with Officer Vega. Minor stated he intentionally fled because he was carrying a knife. Had minor not fled, Officer Vega would have begun his investigation of the vandalism report upon his arrival, instead of having to wait until he finished chasing minor. This establishes the first element of the offense, that minor willfully delayed the officer.

Officer Vega went to the location to investigate a report of vandalism. Because minor was there and matched the description of one of the vandals, Officer Vega wanted to question him as part of the investigation. This establishes the second element of the offense, that Officer Vega was engaged in the performance of his duties.

Minor knew Officer Vega was a police officer. By approaching minor and identifying himself as a police officer and by chasing minor and telling him to stop, Officer Vega indicated he wanted to talk to minor. This is evidence of the third element of the offense, that minor knew or reasonably should have known that Officer Vega was a police officer who was engaged in the performance of his duties.

Accordingly, the record contains substantial evidence minor violated section 148, subdivision (a)(1), by delaying Officer Vega in the performance of his duty to investigate the report of vandalism. (See *In re Muhammed C.* (2002) 95 Cal.App.4th 1325, 1330 [minor “willfully delayed the officers’ performance of duties [in violation of section 148, subdivision (a)(1)] by refusing [their] repeated requests that he step away from the patrol car . . . before [he] complied; [he] interrupted processing [the car of an arrestee] to attend to [minor],” which delayed the investigation].)

Contrary to minor’s contention, substantial evidence supports a finding that Officer Vega’s attempt to detain minor was lawful. Officer Vega was investigating a report of a crime, he wanted to question individuals he found at the scene, minor was at the scene, minor matched the description of one of the vandals, and minor ran from Officer Vega as soon as he saw him. In these circumstances, it was reasonable for

Officer Vega to believe there was criminal activity afoot and minor was connected to that activity. Detention to question minor was objectively reasonable. (See *Dawkins v. Los Angeles, supra*, 22 Cal.3d at p. 133.)

DISPOSITION

The judgment is affirmed.

KRIEGLER, J.

We concur:

TURNER, P. J.

MOSK, J.