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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re EDWARD B., a Person Coming
Under the Juvenile Court Law.

B243533

THE PEOPLE,

(Los Angeles County
Super. Ct. No. KJ36914)

Plaintiff and Respondent,

v.

EDWARD B.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County.

Phyllis Shibata, Judge. Affirmed.

Alexander L. Griggs, 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, Senior Assistant Attorney General, Scott A. Taryle and Kimberley J. Baker-Guillemet, Deputy Attorneys General, for Plaintiff and Respondent.

The juvenile court sustained a petition (Welf. & Inst. Code, § 602) alleging Edward B. committed the misdemeanor offense of violating the terms of a restraining order. On appeal, Edward contends the juvenile court erred in sustaining the petition because there was no stay-away provision in the restraining order. We affirm the order.

FACTUAL AND PROCEDURAL BACKGROUND

On September 2, 2011, the Los Angeles Superior Court issued a restraining order against Edward to protect K.F. and K.F.'s family.¹ On December 23, 2011, the District Attorney filed a petition alleging that Edward disobeyed the court order in violation of Penal Code 166, subdivision (a)(4).² At the adjudication, the juvenile court sustained the petition, declared Edward a ward of the juvenile court and ordered him placed home on probation. Edward filed a timely notice of appeal.

The Incident

K.F. and his family live in the same condominium complex as Edward. On September 4, 2011, K.F. was riding his scooter next to a park in the complex. Edward was sitting on a bench in the park. K.F. rode by the park about three times. K.F. heard Edward say he was going to call 9-1-1. Edward then started running after K.F. K.F. rode faster to avoid being caught by Edward. K.F. then saw his neighbor, and yelled for help.

Grettalynn Navarette was working in her yard when she heard some commotion. Navarette heard her neighbor, K.F., crying out for his mother and asking for help. She stepped outside the gate of her condominium unit and saw K.F., whom she described as "frantic" and a "nervous wreck." K.F. was crying and said, "Eddie was doing it again." Approximately one hundred feet away from K.F., Navarette saw Edward being taken down the walkway by his brother. He was physically trying to escape his brother's grasp. Navarette heard Edward say, "I'm gonna get you, you fuckin' B."

¹ Minor does not challenge the validity of the civil harassment restraining order.

² All further statutory references are to the Penal Code unless otherwise specified.

The Defense Case

Laurie Lund is Edward's neighbor. Her daughter, Natalie, is Edward's friend. On the day of the incident, Lund observed Edward and Natalie spending time together. Lund testified that Edward and Natalie walked around the backside of the condominium to avoid seeing K.F. and his family in the front. Lund observed Natalie, Edward, and Edward's mother walking outside at the same time K.F. walked out of his condominium unit. Lund "knew that this was not going to be a good situation." Lund also observed K.F.'s father talking on his phone and the police arrived seven minutes later. Lund did not see Edward being carried away by his brother. She also did not hear Edward screaming profanities or K.F. yelling for help.

Maryann Mayer is Edward's legal guardian. Mayer testified that after coming home from church, Edward and Natalie made plans to play together. Natalie's mother called Mayer to warn her that K.F. and his family were out looking for Edward. Mayer decided to stay with Edward the whole time he was outside. Edward and Natalie went to play at Natalie's house for 20 to 30 minutes while Mayer remained outside. During that time, Mayer testified that she saw K.F.'s father drive his car by the park several times while looking at her. She also saw K.F.'s mother walk her dog past the park four times. After Edward and Natalie returned to the park, Mayer tried to convince the children to move to a different location away from K.F.'s family. However, Natalie wanted to stay close by because she was waiting for her mother to call her for dinner. While sitting in the park, Mayer saw K.F. riding his scooter and then saw him stop and stare at Edward. Edward immediately began to dial 9-1-1 because he felt K.F. was harassing him. Mayer urged Edward not to call 9-1-1 because it was not an emergency.

As Mayer and Edward were walking Natalie back to her home, Natalie's mother motioned for the pair to walk in another direction because a group of neighbors had gathered on the sidewalk "to witness something." Mayer then put her arm around Edward and tried to lead him home. Edward became upset because he wanted to continue playing with Natalie. Edward then called Mayer a "bitch" and became more aggravated. Mayer knew she could not get Edward home on her own, so she called his

older brother, Bryan, to help. When Edward saw Bryan approaching, he took off running to avoid being restrained. Bryan caught up to Edward and picked him up. Edward kicked and screamed obscenities most of the way home. After Edward agreed to stop struggling, Bryan put him down and the pair walked the rest of the way home. When they arrived home, Mayer gave Edward his medication two hours later than usual. He calmed down soon after.

After going to dinner and running errands, Mayer and Edward returned home. The police came to the condominium that night and talked to Edward about the incident. The police talked to Mayer and Edward on the patio and then asked Mayer to bring Edward to the police station for further questioning.

The People's Rebuttal

Officer Richard Martinez is a patrol officer for the Azusa Police Department. Officer Martinez responded to the condominium complex on the night of the incident. Upon arrival, Officer Martinez first talked to K.F. and his family before going to talk to Mayer and Edward. Mayer told Officer Martinez that Edward had chased after K.F. She made no mention of K.F. or his family bothering her or staring at Edward. Officer Martinez testified that he had previously responded to the location numerous times due to incidents involving Edward. Officer Martinez was able to tell that Edward had mental disabilities. On the day in question, Edward told Officer Martinez that he got upset after Mayer told him not to call the police and that he decided to run after K.F. because he did not like being told what to do. Edward indicated that he knew he was not supposed to be chasing K.F.

The Defense's Surrebuttal

Edward testified on his own behalf. On the date of the incident, Edward was at the park with Mayer when he saw K.F. ride his scooter back and forth three times. K.F. was approximately 40 feet away from Edward. After riding by the third time, K.F. was looking at Edward, which Edward perceived as harassment. Edward then said, "I'm gonna call the cops" to Mayer. Mayer told Edward it was not necessary to call the police and the two argued for a few minutes. Edward decided he wanted to go to Natalie's

house and started running in that direction. K.F. saw Edward coming around the corner and started riding faster towards his house and cried, “Mom. Mom. Mom.” Edward’s brother then came and picked him up. The two struggled and Edward called his brother a “bitch.” Edward agreed to calm down and walked the rest of the way home by himself. Edward denied ever yelling at K.F. He also denied telling Officer Martinez that he chased K.F. Edward admitted that he was aware of the restraining order and knew he should not be having any contact with K.F.

The court sustained the petition

DISCUSSION

Appellant contends that there was insufficient evidence to find that he knowingly violated the restraining order because there was no “stay-away” provision in the restraining order. We disagree.

“The same standard governs review of the sufficiency of evidence in adult criminal cases and juvenile cases: we review the whole record in the light most favorable to the judgment to decide whether substantial evidence supports the conviction, so that a reasonable fact finder could find guilt beyond a reasonable doubt. [Citations.]” (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 540.) The same standard of review applies to the review of circumstantial evidence. (*People v. Ceja* (1993) 4 Cal.4th 1134, 1138.) We must accept logical inferences that the trier of fact might have drawn from the circumstantial evidence. (*People v. Maury* (2003) 30 Cal.4th 342, 396.) “We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court.” (*In re Matthew S.* (1988) 201 Cal.App.3d 315, 321.) “ “If the evidence so viewed is sufficient as a matter of law, the judgment must be affirmed. . . .” ’ ” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.)

Section 166, subdivision (a), provides that a criminal contempt of court includes a “[w]illful disobedience of the terms as written of any process or court order or out-of-state court order, lawfully issued by a court, including orders pending trial.” (§ 166, subd. (a)(4).) “For there to be a violation of this section, there must be proof that: the court order was made; the defendant had knowledge of the order; the defendant possessed

the ability to comply; and that the defendant disobeyed the order.” (*People v. Greenfield* (1982) 134 Cal.App.3d Supp.1, 4.)

Edward contends only that there is insufficient evidence that he disobeyed the terms of the restraining order. He argues that because the restraining order had no proximity prohibition, he could not have violated its terms. Not so.

The restraining order prohibited Edward from: “[h]arass[ing], attack[ing], strik[ing], threaten[ing], assault[ing] (sexually or otherwise), hit[ing], follow[ing], stalk[ing], destroy[ing] personal property, keep[ing] under surveillance, or block[ing]” K.F. (or A.F., V.F., and J.F.).

Even though there was no provision in the restraining order that required Edward to stay a specified number of yards away from K.F., he still violated its terms. Edward admitted he chased after K.F., knowing he prohibited from doing so. He screamed profanities and said, “I’m going to get you, you fuckin’ B.” This is sufficient evidence of violating the terms of the restraining order which prohibited threats, stalking, and harassment of K.F.

DISPOSITION

The juvenile court’s order is affirmed.

BIGELOW, P. J.

We concur:

RUBIN, J.

GRIMES, J.