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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re ROBERT V., a Person Coming Under
the Juvenile Court Law.

B243574

(Los Angeles County
Super. Ct. No. FJ50256)

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT V.,

Defendant and Appellant.

APPEAL from and order of the Superior Court of Los Angeles County, Tamara Hall and Philip K. Mautino, Judges. Affirmed.

Gerald Peters, 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, Linda C. Johnson and Toni R. Johns Estaville, Deputy Attorneys General, for Plaintiff and Respondent.

Robert V. appeals from an order declaring him a ward of the juvenile court after the court found he had committed two second degree robberies. Robert contends there was insufficient evidence he aided and abetted the commission of one of the robberies. We affirm.¹

FACTUAL AND PROCEDURAL BACKGROUND

1. The Petition

On June 8, 2012 the People filed a Welfare and Institutions Code section 602 petition alleging Robert, then 16 years old, had robbed then 15-year-old Danny M. (Pen. Code, § 211, count 1) and his 13-year-old brother Andy M. (count 2) and had carried a switchblade knife (Pen. Code, § 21510, subd. (b), count 3).² The petition specially alleged a principal had been armed with a knife in connection with count 1 (Pen. Code, § 12022, subd. (b)(1)). Represented by appointed counsel, Robert denied the allegations.

2. The Jurisdiction and Disposition Hearings

According to the evidence presented at the jurisdiction hearing, in the early evening of April 11, 2012, Danny and Andy and their friends Oscar J. and Michael R. were riding bicycles when they were passed by Robert and another young male, who were walking together. Minutes later Robert and his companion returned and approached the bicycle riders. Robert pointed a knife at Danny and threatened to stab him if he did not get off his bicycle. Danny surrendered his bicycle to Robert. In the meantime, Robert's companion told Andy that he belonged to a gang and demanded that Andy get off his bicycle. Andy refused and initially resisted the attempts of Robert's companion to push him off the bicycle and to take his cell phone; Danny instructed Andy not to fight back. Robert's companion then pushed Andy off of his bicycle and took it. Robert and his companion fled the scene on the bicycles.

¹ As both parties acknowledge, the July 25, 2012 disposition order erroneously omitted the juvenile court's calculation of predisposition credits, which we correct to reflect the oral pronouncement of disposition.

² Robert had previously been declared a ward of the court and directed to a short-term camp community placement program based on a sustained petition alleging grand theft (a felony) and giving false information to a police officer (a misdemeanor).

The brothers notified police of the robberies. Officers subsequently found Robert sitting in a nearby park holding Danny's bicycle, which was under a tree next to Andy's bicycle. A search of Robert yielded the knife he had used to threaten Danny. Officers conducted an in-field show up at which, Danny, Andy and Oscar identified Robert as the person who had taken Danny's bicycle.³

Robert did not testify in his own defense. Dr. Scott Frasier, an eyewitness identification expert, testified for the defense concerning factors that contribute to the unreliability of eye-witness identification, including cross-racial identification, weapons focus, multiple perpetrators and memory convergence.⁴

Following argument by counsel, the juvenile court sustained counts 1 and 2 and found true the weapon-use allegation. The court dismissed count 3, finding not true the allegation Robert had possessed a switchblade knife.

At the disposition hearing the juvenile court ordered Robert to remain a ward of the court and directed him into the nine-month camp community placement program. The court calculated the maximum term of confinement as seven years two months with 102 days of predisposition credit.⁵

CONTENTION

Robert does not challenge the juvenile court's finding he robbed Danny, but contends the evidence was insufficient to prove he aided and abetted the robbery of Andy.

³ At the jurisdiction hearing Danny and Oscar identified Robert as the person who had taken Danny's bicycle. Danny also identified the knife recovered by police as the weapon Robert had pointed at him when taking his bicycle.

⁴ Danny, Andy and Oscar were apparently not the same race as Robert and the unidentified youth, who were both African-American.

⁵ The calculation of the maximum term of confinement was based in part on the previously sustained petition for grand theft and giving false information to a police officer.

DISCUSSION

1. *Substantial Evidence Supports the Juvenile Court's Finding Robert Committed the Second Degree Robbery of Andy*

a. *Standard of review*

“The same standard of appellate review is applicable in considering the sufficiency of the evidence in a juvenile proceeding as in reviewing the sufficiency of the evidence to support a criminal conviction.” (*In re Sylvester C.* (2006) 137 Cal.App.4th 601, 605; *In re Michael M.* (2001) 86 Cal.App.4th 718, 726.) In either case, “we review the whole record to determine whether *any* rational trier of fact could have found the essential elements of the crime or special circumstances beyond a reasonable doubt. [Citation.] The record must disclose substantial evidence to support the verdict—i.e., evidence that is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.] In applying this test, we review the evidence in the light most favorable to the prosecution and presume in support of the judgment the existence of every fact the jury could reasonably have deduced from the evidence. [Citation.] ‘Conflicts and even testimony [that] is subject to justifiable suspicion do not justify the reversal of a judgment, for it is the exclusive province of the trial judge or jury to determine the credibility of a witness and the truth or falsity of the facts upon which a determination depends. [Citation.] We resolve neither credibility issues nor evidentiary conflicts; we look for substantial evidence. [Citation.]’ [Citation.] A reversal for insufficient evidence ‘is unwarranted unless it appears “that upon no hypothesis whatever is there sufficient substantial evidence to support”’ the jury’s verdict.” (*People v. Zamudio* (2008) 43 Cal.4th 327, 357.)

b. *There is sufficient evidence that Robert aided and abetted the robbery of Andy*

Robbery is “the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will accomplished by means of force or fear” (Pen. Code, § 211, *People v. McKinnon* (2011) 52 Cal.4th 610, 686) and requires the specific intent to permanently deprive the victim of his or her property.

(*People v. Lewis* (2008) 43 Cal.4th 415, 464.) A person aids and abets the commission of a robbery ““when he or she, (i) with knowledge of the unlawful purpose of the perpetrator, (ii) and with the intent or purpose of committing, facilitating or encouraging commission of the crime, (iii) by act or advice, aids, promotes, encourages or instigates, the commission of the crime.”” (*People v. Delgado* (2013) 56 Cal.4th 480, 486.) The elements of aiding and abetting may be determined from a variety of factors, including presence at the scene of the crime, companionship, conduct before and after the offense and flight. (*In re Juan G.* (2003) 112 Cal.App.4th 1, 5.)

Here the juvenile court expressly found Robert had aided and abetted the robbery of Andy. There was ample evidence to support the court’s conclusion Robert and his confederate had worked in concert to rob the brothers of their bicycles: Before the robberies Robert and the second youth passed by the group of bicycle riders and then returned together minutes later to demand the brothers part with their bicycles. Robert’s use of a knife discouraged the other bicycle riders from interfering with the robberies.⁶ When Robert and his companion had each secured a bicycle, they rode away together. Shortly thereafter, police found Robert in possession of both bicycles. The record unmistakably shows Robert and his confederate had engaged in coordinated acts of force and fear to coerce the brothers to relinquish their bicycles.

⁶ Andy testified he was unable to see what was happening to his brother during the robberies. However, Oscar, who witnessed both robberies, testified he “did not want to get involved” after seeing Robert demand Danny’s bicycle at knife point.

DISPOSITION

The jurisdiction order is affirmed. The July 25, 2012 disposition order is modified to conform to the oral pronouncement of 102 days predisposition credits. As modified the disposition order is affirmed.

PERLUSS, P. J.

We concur:

WOODS, J.

ZELON, J.