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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

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

B269846
(Los Angeles County
Super. Ct. No. MJ23364)

THE PEOPLE,

Plaintiff and Respondent,

v.

JOEL B.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County,
J. Christopher Smith, Judge. Affirmed.

Esther R. Sorkin, under appointment by the Court of Appeal, for
Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant
Attorney General, Lance E. Winters, Assistant Attorney General, Paul M.
Roadarmel, Jr., and Amanda V. Lopez, Deputy Attorneys General, for
Plaintiff and Respondent.

The juvenile court found that Joel B., a minor, made criminal threats and committed assault with a deadly weapon. The court declared him a ward of the court and ordered him placed in an open facility. On appeal, Joel B. contends the court's finding that a knife he used was a deadly weapon was unsupported by substantial evidence because the knife was dull. We affirm.

BACKGROUND

On the morning of October 15, 2015, Christine R., Joel B.'s mother, was making breakfast for him and preparing for his weekly visit at their home with his therapist. Joel was agitated, having not slept the night before, and was reluctant to meet with the therapist. When Christine and Joel argued about the therapy visit, Joel took a knife that was approximately 12 inches long, with a serrated blade of seven to eight inches, akin to a bread knife, and waved it at and tried to stab Christine. He then held the knife to her neck and told her, "I could, you know, hurt you with this," "I could kill you right now," and "I am gonna cut your fucking head off." They tussled, and Joel ended up on top of Christine on a bed with the knife still in hand, covering her entirely with a blanket. After Christine escaped, she called the police, and Joel fled.

The next day, the district attorney filed a petition under section 602 of the Welfare and Institutions Code alleging Joel B. committed assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1)) and made criminal threats (Pen. Code, § 422, subd. (a)). The petition further alleged he personally used a deadly weapon. (Pen. Code, §§ 12022, subd. (b)(1), 1192.7, subd. (c)(23).) The juvenile court found the petition and special allegation true, declared Joel B. a ward of the court, and ordered him placed in an open facility for a term of no longer than five years eight months, with 82 days of custody credit. (Welf. & Inst. Code, § 602, subd. (a).) Joel B. appealed.

DISCUSSION

Joel B. contends insufficient evidence supported the juvenile court's finding that the knife was a deadly weapon because it was too dull to be deadly as used. We disagree.

In juvenile cases, as in criminal proceedings, “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.” (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 540.)

Penal Code section 245, subdivision (a)(1) provides that “[a]ny person who commits an assault upon the person of another with a deadly weapon or instrument . . . shall be punished by imprisonment in the state prison” A “‘deadly weapon’ is ‘any object, instrument, or weapon that is used in such a manner as to be capable of producing and likely to produce, death or great bodily injury.’” (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028-1029.) “[S]ection 245 contemplates two categories of deadly weapons: In the first category are objects that are ‘deadly weapons as a matter of law’ such as dirks and blackjacks because ‘the ordinary use for which they are designed establishes their character as such. [Citation.] Other objects, while not deadly per se, may be used, under certain circumstances, in a manner likely to produce death or great bodily injury.’” (*People v. Brown* (2012) 210 Cal.App.4th 1, 6-7.) “For example, a bottle or a pencil, while not deadly per se, may be a deadly weapon within the meaning of section 245, subdivision (a)(1), when used in a manner capable of producing and likely to produce great bodily injury.” (*Id.* at p. 7.) “Great bodily injury, as used in section 245, means significant or substantial injury. [Citation.] Because the statute

speaks to the capability of inflicting significant injury, neither physical contact nor actual injury is required to support a conviction.” (*Ibid.*)

Here, the knife Joel B. used was not a deadly weapon as a matter of law because it was not designed to produce death or great bodily injury in ordinary use. However, a reasonable fact finder could infer that a knife designed for slicing bread was capable of causing great bodily injury or death when applied, as here, to a person’s neck.

Joel B. likens the knife at issue to a large version of a butter knife, as found in *In re Brandon T.* (2011) 191 Cal.App.4th 1491, where a blade of about three and one-quarter inches, with a rounded tip and dull serrations, which actually broke when used, was held not to be a deadly weapon. (*Id.* at p. 1498.) But the knife here was over twice as long and had jagged serrations designed for cutting. A reasonable fact finder would have no reason to think such a knife was dull, and Joel B. offered no evidence that it was.

Joel B. similarly argues the knife was ineffective as a stabbing instrument, as it was incapable of puncturing the skin. Even if true, that fact is irrelevant because Joel B. did not threaten only to stab Christine, but also to cut her head off while holding the knife to her neck. A fact finder could reasonably find that a knife of such length, with jagged serrations, easy could have injured Christine, particularly if aimed at a vulnerable area of her body. Under these circumstances the juvenile court could reasonably find the knife was a deadly weapon.

DISPOSITION

The judgment is affirmed.

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CHANEY, Acting P. J.

We concur:

JOHNSON, J.

LUI, J.