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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(San Joaquin)

In re A.H., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

A.H.,

Defendant and Appellant.

C068060

(Super. Ct. No. 67464)

A.H. (minor) appeals from the juvenile court’s order denying his motion to suppress under Welfare and Institutions Code section 700.1 and the court’s final dispositional order. Minor’s sole contention on appeal is that the court erred in denying his motion to suppress evidence seized by police in connection with a detention he argues was unlawful. We disagree and shall affirm the orders.

FACTUAL AND PROCEDURAL BACKGROUND

The Stop and Search

On December 6, 2010, around 8:30 a.m., Stockton Police Officer Youn Seraypheap was dispatched to investigate a report of "suspicious subjects," described to the officers as "two [B]lack males and one female" at "Navajo Drive and Chisholm Way." While driving to the location, Seraypheap received a second dispatch reporting a burglar alarm sounding "about a block away from where [the officers] were going. . . ."

As Seraypheap approached Navajo and Chisholm, he saw minor (a Black male) with another Black male and a female. There were no other people in the area, and they were "no more than a hundred yards" from the location of the reported burglar alarm. The three looked toward Seraypheap's marked patrol car and the second Black male ran. Officer Spitzer, who was in his own patrol car, followed the runner.

Seraypheap then pulled his patrol car near the curb line on the wrong side of the street and parked the car at an angle in order to keep minor and the female in his line of sight. He did not block the sidewalk with his patrol car or its door; he did not activate his lights or siren. He got out of his car five to 15 feet away from minor. He did not draw his weapon.

Minor continued to approach Seraypheap, but the female did not, instead walking away. Seraypheap asked minor why his friends left; minor responded he did not know. Seraypheap then asked minor if he was armed. Saying nothing, minor took two steps away from Seraypheap and, believing minor was about to run, Seraypheap grabbed the hood attached to the back of minor's shirt.

Minor struggled with Seraypheap, trying to free himself from Seraypheap's grasp. Seraypheap then grabbed minor with both hands and used his body to pin minor to the patrol car; he then "pat-searched" minor to "make sure he had no weapons on him." During the search, Seraypheap found a loaded semiautomatic firearm in minor's waistband.

Seraypheap arrested minor and transported him to the jail. At the jail, Seraypheap asked minor if he had left anything in the patrol car; minor admitted he had left a box of ammunition.

The Allegations and Motion to Suppress

The delinquency petition alleged minor resisted arrest (Pen. Code,¹ § 148, subd. (a)(1)), possessed a firearm (§ 12101, subd. (a)(1)), possessed ammunition (§ 12101, subd. (b)(1)), carried a concealed firearm (§ 12025, subd. (a)(2)), carried a loaded and unregistered firearm (§ 12031, subd. (a)), and received stolen property (§ 496, subd. (a)).

Minor filed a motion to suppress the evidence found on December 6, 2010. In support of his motion, minor argued Seraypheap lacked the reasonable suspicion of criminal activity required for an investigative detention; the People argued otherwise.

The juvenile court denied minor's motion, making detailed findings. It first found minor was detained when Seraypheap grabbed his hood. It then found that based on the totality of

¹ Further undesignated statutory references are to the Penal Code.

the circumstances--which included a suspicious person call, followed by an additional call reporting a burglar alarm, followed by all three subjects' trying to run away or leave when the officers contacted them, including minor's attempted flight after the officer's inquiry as to whether he was armed--Officer Seraypheap had a reasonable suspicion that minor was involved in criminal activity. For the same reasons, and adding that minor's struggle with the officer was also a factor, the court further concluded that the "pat-down search" was valid, as it was reasonable for the officer to believe that minor was armed and dangerous.

Following a contested jurisdictional hearing, the court found minor committed the offenses alleged in the delinquency petition, except for the allegation of receiving stolen property.

DISCUSSION

Minor contends the juvenile court erred in denying his motion to suppress because his initial detention and subsequent search occurred in violation of the Fourth Amendment.² We are not persuaded.

Standard of Review

"The standard of review of a trial court's ruling on a motion to suppress is well-established and is equally applicable

² Although minor initially argues that "even if the initial detention was lawful, the pat search was not[,]" he subsequently concedes in his reply brief that if the underlying detention was valid, so too was the subsequent search.

to juvenile court proceedings. "On appeal from the denial of a suppression motion, the court reviews the evidence in a light favorable to the trial court's ruling. [Citation.] We must uphold those express or implied findings of fact by the trial court that are supported by substantial evidence and independently determine whether the facts support the court's legal conclusions." (In re Lennies H. (2005) 126 Cal.App.4th 1232, 1236.)

Detention and Surrounding Facts

As discussed *ante*, the juvenile court found minor was detained when Seraypheap grabbed his hood. Minor does not dispute this finding on appeal.³

Minor *does* argue that the evidence does *not* support the juvenile court's finding that Seraypheap received the call regarding a burglar alarm sounding before he detained minor. Minor also argues that the evidence failed to show he was near the location of the alarm at the time of his detention. Because the facts of the sounding alarm and its proximity to minor's location were factors relied upon by the juvenile court in its ruling that minor's detention was valid given the totality of the circumstances, we shall discuss the evidence supporting these findings.

Seraypheap testified that he received the call regarding the burglar alarm while en route to the location where dispatch

³ Neither party disputes the propriety of this finding; thus we decline to address it.

reported suspicious activity. He also testified the location of the alarm was no more than 100 yards away from where he first saw minor. This testimony is *evidence*, and the juvenile court was entitled to find it credible. We glean from its ruling that the court did, indeed, find the officer's testimony credible.

Further--and contrary to minor's argument on appeal--the dispatch logs do *not* contradict Seraypheap's testimony. Rather, the logs *support* Seraypheap's testimony that he knew of the burglar alarm in the nearby area of the suspicious persons call, and that both events were possibly related, *before* he detained minor.⁴ We see no error in the juvenile court's consideration of this information.

Reasonable Suspicion

For a detention to be lawful under the Fourth Amendment, the officer must be able to point to specific and articulable facts that, giving due weight to the reasonable inferences the officer may draw from those facts in light of experience, reasonably warrant the intrusion. (See *gen. Terry v. Ohio* (1968) 392 U.S. 1, 21 [20 L.Ed.2d 889]; *People v. Souza* (1994) 9 Cal.4th 224, 230 (*Souza*).) In particular, an officer may stop

⁴ The dispatch logs show that at 8:30:06, the call center reported the call for suspicious persons located at Navajo and Chisholm may be "related to CH 159." "CH 159" was the call number assigned to the report of a burglar alarm. At 8:30:53, the call center acknowledged the report of suspicious persons at Navajo and Chisholm (identified as CH 156), was "in the area" near the burglar alarm. Five minutes *later*, at 8:35:36, Seraypheap reported minor was detained.

and detain a person for questioning or limited investigation if the officer has a "reasonable suspicion," based on specific and articulable facts, that some activity relating to crime has taken place or is occurring or is about to occur, and the person he intends to stop or detain is involved in that activity.

(*United States v. Sokolow* (1989) 490 U.S. 1, 7-8 [104 L.Ed.2d 1]; *Souza, supra*, 9 Cal.4th at p. 231 ["A detention is reasonable under the Fourth Amendment when the detaining officer can point to specific articulable facts that, considered in light of the totality of the circumstances, provide some objective manifestation that the person detained may be involved in criminal activity"].)

By the time Seraypheap stopped minor, he had received a report of suspicious persons, and had located minor and his companions, in that same area, matching the description of the persons reported to be acting suspiciously. He also knew that a residential burglar alarm was sounding in the same area, and that the two reports were possibly connected. One by one, minor and his friends fled from or avoided the officers--minor specifically when asked if he was armed. Under the totality of the circumstances, it was certainly reasonable for Seraypheap to suspect that minor and his companions were involved in criminal activity. He was, therefore, justified in detaining minor and performing a limited search of his person for weapons. The juvenile court did not err when it so found.

DISPOSITION

The orders of the juvenile court are affirmed.

_____ DUARTE _____, J.

We concur:

_____ BLEASE _____, Acting P. J.

_____ HULL _____, J.