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

In re C.L., a Person Coming Under the Juvenile Court
Law.

C071957

THE PEOPLE,

(Super. Ct. No. 69168)

Plaintiff and Respondent,

v.

C.L.,

Defendant and Appellant.

The juvenile court placed the minor on probation after finding he came within its jurisdiction because he committed a home invasion robbery and a carjacking and had a concealed firearm in a vehicle. On appeal, the minor contends the juvenile court erred when it denied his Welfare and Institutions Code, section 701.1, motion to dismiss the

petition (section 701.1 motion). As we explain, because sufficient evidence supports the court's denial of the section 701.1 motion, we shall affirm.

BACKGROUND

Juan Camarena and Margarita Ruiz (the minor's mother) went to Ruiz's residence to drink beer. They were in Ruiz's bedroom when someone kicked in the door. Ruiz's brother, Juan Martinez (an adult male), and three young juveniles--including the minor and his brother--then robbed Camarena at gunpoint. Martinez demanded Camarena's money, wallet, and keys. One of the juveniles took the wallet out of Camarena's pocket. During the robbery, Ruiz was in the bedroom "kneeling down by the TV . . . screaming 'No. No. No.'" As the robbers were leaving the bedroom, Ruiz cried out, "My children, my children." Minutes after the robbery, Camarena went outside and saw the robbers had left with his car. Ruiz then called the police.

Shortly after receiving the call, law enforcement saw the stolen vehicle and gave chase for more than 60 miles at speeds of up to 110-115 miles per hour. The car eventually stopped on the side of the freeway. One passenger fled the scene and was not caught. The minor's twin brother was driving the vehicle; a loaded handgun, similar to the one used in the robbery, was under the driver's seat. The minor was seated behind his twin and beside his uncle in the back seat of the stolen car. The minor and his brother were taken into custody. (See *People v. S.L.* (Oct. 28, 2013, C071840) [nonpub. opn].)

A juvenile wardship petition charged the minor with home invasion robbery (Pen. Code,¹ § 211 - count one), carjacking (§ 215, subd. (a) - count two), resisting a police officer (§ 148, subd. (a)(1) - count three), and having a concealed firearm in a vehicle (§§ 25400, subd. (a) & 12025a - count four). As to counts one and two, the petition also alleged that during the commission of the offenses, a principal was armed with a

¹ Further undesignated statutory references are to the Penal Code.

handgun. (§ 12022, subd. (a)(1).) After a jurisdictional hearing, the juvenile court sustained the petition, finding counts one and two were proven beyond a reasonable doubt. The court declared both counts felonies, declared the minor a ward of the court and committed him to 90 days in the Juvenile Justice Center, followed by 30 days on home supervision/house arrest. The maximum period of confinement was determined to be 12 years and eight months, with credit for 23 days of time served. The minor appeals.

DISCUSSION

On appeal, the minor contends the juvenile court erred in denying his section 701.1 motion because there was insufficient evidence he participated in the crimes for which he was ultimately convicted. We disagree.

“Courts have held that [Welfare and Institutions Code] section 701.1 is substantially similar to Penal Code section 1118 governing motions to acquit in criminal trials and that therefore the ‘rules and procedures applicable to section 1118 . . . apply with equal force to juvenile proceedings.’ [Citation.] Thus, the requirement in a criminal case that on a motion for acquittal the trial court is required ‘to weigh the evidence, evaluate the credibility of witnesses, and determine that the case against the defendant is “proved beyond a reasonable doubt before [the defendant] is required to put on a defense”’ applies equally well to motions to dismiss brought in juvenile proceedings. [Citation.]” (*In re Anthony J.* (2004) 117 Cal.App.4th 718, 727, fn. omitted.)

We review the juvenile court’s ruling on a section 701.1 motion under the substantial evidence standard. (*In re Andre G.* (1989) 210 Cal.App.3d 62, 66.) Thus, “[t]his court must review the [record as it existed at the time of the motion] in the light most favorable to the judgment below to determine whether it discloses substantial evidence -- such that a reasonable trier of fact could find the [petition true] beyond a reasonable doubt. We must presume in support of the [ruling] the existence of every fact the trier of fact could reasonably deduce from the evidence [citation] and we must make all reasonable inferences that support the finding of the juvenile court. [Citation.]” (*In re*

Jose R. (1982) 137 Cal.App.3d 269, 275.) We “‘may not set aside the [juvenile] court’s denial of the motion on the ground of the insufficiency of the evidence unless it clearly appears that upon no hypothesis whatsoever is there sufficient substantial evidence to support the conclusion reached by the court below.’ [Citations.]” (*In re Man J.* (1983) 149 Cal.App.3d 475, 482.)

The minor claims the People’s evidence was insufficient because “[m]uch of the evidence adduced by the prosecution at the jurisdictional hearing was offered against appellant’s brother Santiago, who was tried at the same time. Almost no evidence was tendered against appellant. . . .” The minor claims the fact he was found in the stolen car shortly after it was stolen was not sufficient evidence to support his conviction. We disagree with the minor’s characterization of the evidence and thus, his conclusion.

“A person aids and abets the commission of a crime 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. Cooper* (1991) 53 Cal.3d 1158, 1164.) “Whether a person has aided and abetted in the commission of a crime is a question of fact, and on appeal all conflicts in the evidence and attendant reasonable inferences are resolved in favor of the judgment. Among the factors which may be considered in determining aiding and abetting are: presence at the crime scene, companionship, and conduct before and after the offense.” (*In re Juan G.* (2003) 112 Cal.App.4th 1, 5.)

Here, the People presented evidence showing that the crimes occurred at the minor’s mother’s residence around 2:00 a.m. The victim identified the minor’s uncle (Martinez) as the one who pointed a gun at him and testified there were three juveniles present during the robbery, at least one of whom he believed to be the minor’s brother, Santiago L. The victim also testified that one of the juveniles, not Santiago L., physically removed the wallet from his pocket while Martinez continued to point a gun at him.

In addition, during the robbery the minor's mother (Ruiz) was in the bedroom, on her knees, crying. As the robbers left the bedroom, Ruiz cried out "my children, my children." The stolen vehicle was seen by law enforcement shortly after it was taken. Following a lengthy, high speed chase, the car finally came to a stop. The minor was found inside the car, sitting behind the driver, his twin brother. A loaded gun similar to the one used to rob the victim was found under the driver's seat, near the minor's feet.

Relying on *People v. Clark* (1967) 251 Cal.App.2d 868 (*Clark*), the minor argues his presence as a passenger in the stolen car is not sufficient evidence to convict him of carjacking or robbery. In *Clark*, the minor was a passenger in a stolen car but there was no evidence connecting him to the car before he accepted a ride in it. (*Clark, supra*, at p. 874.) The minor had an alibi for the time in which the car was stolen. (*Ibid.*) The minor was only in the car because a friend offered to drive him home from a party, hours after the car was stolen. (*Ibid.*) His mere presence in the stolen car, without more, was insufficient to prove he knew the car was stolen or participated in its taking. (*Ibid.*)

The facts here are more analogous to those in *In re Lynette G.* (1976) 54 Cal.App.3d 1087. There: "witnesses saw a teenage girl rob a woman of her purse and package. Five feet away stood the minor and two other girls, who fled with the perpetrator when the victim began yelling for help. Shortly thereafter, all four girls were found and arrested together. The Court of Appeal held there was sufficient evidence for the juvenile court to conclude the minor participated as an aider and abettor. The minor was at the crime scene, fled with the perpetrator and her companions, and was soon detained in their company." (*In re Juan G.* (2003) 112 Cal.App.4th 1, 6.)

Here, the car was seen moments after it was stolen from in front of the minor's mother's residence. Law enforcement pursued the car in a long distance, high-speed chase. When the car was finally stopped, the minor was inside the car with a loaded gun under the seat in front of him. The driver of the car was his twin brother, and his uncle was a passenger. Based on this evidence, it was reasonable for the juvenile court to

presume the minor knew the car was stolen and was present when it was taken. Although the minor argues he could have joined the others after the car was taken, he cites no evidence in the record to support that claim and we see none. Given the temporal proximity of the car's first sighting by law enforcement to its taking, it is not a reasonable inference from the evidence that the minor joined his uncle and brother after the carjacking.

In addition, the minor's mother was in the room during the robbery, crying. As the robbers left the room she cried out "my children, my children." It is reasonable to infer from her use of the plural that the minor, as well as his brother, were both involved in the robbery. Moreover, when the victim's wallet and keys were taken from him at gunpoint, he remembered three "juveniles" were present along with the man holding the gun and one of those juveniles, not Santiago L., physically took the wallet from the victim's pocket.

Based on this, we conclude there was sufficient evidence from which the juvenile court could reasonably determine the minor was present, along with his uncle and his brother, during the commission of the robbery as well as the carjacking, then fled with his brother and uncle, and was soon found with them inside the stolen car. On these facts, it was reasonable to infer the minor was fully aware of the crimes being committed and either participated in or aided and abetted the commission of the crimes. Accordingly, we find it was not error to deny the minor's section 701.1 motion.²

² Following the denial of the minor's section 701.1 motion, he and his brother called their father as a defense witness. During his testimony, their father testified that on the night in question, the minor and his brother were at their mother's house. This additional evidence further supports the juvenile court's ultimate decision, adjudging the minor to be a ward of the court. Accordingly, any claim there was insufficient evidence to support the adjudication after presentation of the minor's defense also fails.

DISPOSITION

The orders of the juvenile court are affirmed.

DUARTE, J.

We concur:

BLEASE, Acting P. J.

MAURO, J.