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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

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

THE PEOPLE,

Plaintiff and Respondent,

v.

A.M.,

Defendant and Appellant.

E059128

(Super.Ct.No. SWJ1100399)

OPINION

APPEAL from the Superior Court of Riverside County. F. Paul Dickerson III,  
Judge. Affirmed.

Nancy S. Brandt, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney  
General, Julie L. Garland, Assistant Attorney General, Barry Carlton and Teresa  
Torreblanca, Deputy Attorneys General, for Plaintiff and Respondent.

Following a jurisdictional hearing, the juvenile court found true that defendant and appellant A.M. (minor) had committed a residential burglary (Pen. Code, § 459). Minor was thereafter continued as a ward of the court and placed in a suitable group home, relative home, or a county/private facility. Minor's sole contention on appeal is that there was insufficient evidence to support the juvenile court's finding that he committed burglary. We reject this contention and affirm the judgment.

## I

### FACTUAL BACKGROUND

On February 27, 2013, around 10:15 a.m., Luis Rodriguez left his residence. When he returned about 45 minutes later, he noticed a man who appeared to be between the ages of 18 and 22 in his kitchen. The man ran out of the house through the back patio and jumped a fence. Rodriguez chased him, but the man escaped on a large skateboard.

Rodriguez returned home and found a second man in his house. The man threw a backpack full of Rodriguez's items at Rodriguez and ran out the side door of the garage. Rodriguez called the police.

When Riverside County Sheriff's Department Deputy Lucy Stutler arrived at the scene, Rodriguez told her that one of the suspects was Hispanic, about 20 years old, six feet tall, 150 pounds, and wearing a dark shirt and jeans; and that the other suspect was about 18 years old, six feet tall, 150 pounds, wearing a dark-hooded sweatshirt, dark shorts, and carrying a backpack. Deputy Stutler relayed the description of the suspects to other deputies who were in the area looking for the perpetrators.

Deputy Stutler later drove Rodriguez to a location where one of the suspects, later identified as Jeron Smithson, had been detained. After Deputy Stutler read Rodriguez the standard in-field admonishment from a department issued card, Rodriguez identified Smithson as the person who threw the backpack at him. Smithson was in possession of a skateboard when he was detained.

Around 11:30 a.m., Deputy Brian Cisneros was dispatched to the scene and was told by air shift to detain a Hispanic or light-skinned Black male wearing a dark-hooded sweatshirt, walking down a street, about a quarter mile from Rodriguez's house. Deputy Cisneros saw the suspect, later identified as minor, and detained him.

Deputy Stutler drove Rodriguez to the location where minor had been detained. After she again read Rodriguez the department issued in-field admonishment, Rodriguez identified minor as the person who had been in his kitchen.<sup>1</sup>

Minor was thereafter arrested. After waiving his constitutional rights, minor claimed that he had been at a friend's house smoking marijuana. When Deputy Stutler asked minor why his clothes had dirt and leaves on them, minor did not really provide an answer.

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<sup>1</sup> At the time of trial, Rodriguez was unable to say with certainty that minor was one of the suspects and attempted to recant his earlier identification. Rodriguez appeared to doubt his earlier identifications and acknowledged that he was worried about his family.

None of the items taken during the burglary, including an Xbox 360 gaming console, an iPod, and two Airsoft rifles, were ever recovered.

The juvenile court took judicial notice of minor's June 27, 2011 burglary conviction to prove intent and motive under Evidence Code section 1101, subdivision (b).

## II

### DISCUSSION

Minor contends that there was insufficient evidence to support the juvenile court's finding that he burglarized the Rodriguez home. In support, he relies on Rodriguez's testimony at trial that he was unsure whether minor was the burglar who ran out of his house because that man he saw in his house was wearing different clothing than minor, had acne, and was Black, rather than Hispanic.

In reviewing minor's claim regarding the sufficiency of the evidence, the appellate court must "review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence—that is evidence which is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt." (*People v. Johnson* (1980) 26 Cal.3d 557, 578; see also *Jackson v. Virginia* (1979) 443 U.S. 307, 318-319.) 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 Ryan N.* (2001) 92 Cal.App.4th 1359, 1371.) Additionally, we use the same standard when circumstantial

evidence is reviewed. (*People v. Bean* (1988) 46 Cal.3d 919, 932.) It is the trier of fact, not the appellate court that must be convinced of the defendant's guilt beyond a reasonable doubt. (*Id.* at p. 933.) Therefore, an appellate court may not substitute its judgment for that of the trier of fact. If the evidence reasonably justifies the trier of fact's findings, the reviewing court may not reverse the judgment merely because it believes that the evidence might also support a contrary finding. (*Ibid.*; see also *People v. Perez* (1992) 2 Cal.4th 1117, 1126.)

The juvenile court here found true, beyond a reasonable doubt, that minor committed the residential burglary. In doing so, the court impliedly found that minor was the perpetrator of the crime and that Rodriguez's in-field identification of minor shortly after the burglary was more credible than his testimony at trial. The juvenile court's finding that minor was one of the burglars who had been in the Rodriguez home is supported by substantial evidence. Minor was detained shortly after the burglary—approximately 30 minutes after Rodriguez saw the suspects in his kitchen, and near the scene of the crime—about a quarter of a mile from the Rodriguez residence. Further, minor was wearing a dark-hooded sweatshirt as described by Rodriguez, and was covered in dirt and leaves, consistent with having fled from the scene of the crime. Moreover, Rodriguez identified minor immediately after the burglary as the man who had been in his kitchen.

In arguing the evidence is insufficient to support a finding of guilty as to the residential burglary, minor draws our attention to discrepancies, inconsistencies and uncertainties in the testimony presented by Rodriguez. While Rodriguez made inconsistent statements with respect to his identification of minor at trial, as noted above, the juvenile court apparently found Rodriguez's identification of minor immediately after the incident more credible. The juvenile court sat as trier of fact and had the benefit of seeing each witness as he or she testified. "[W]e must be ever mindful of the fact that it is the exclusive province of the trier of fact to determine the credibility of a witness and the truth or falsity of the facts upon which a determination depends." (*In re Ryan N.*, *supra*, 92 Cal.App.4th at p. 1372.) We are in no position to weigh conflicts or disputes in the evidence.

When we examine the record in the light most favorable to the judgment below, we find that the trier of fact had before it direct as well as circumstantial evidence pointing to minor's guilt. The juvenile court considered both in-court and out-of-court identifications of minor as the perpetrator of the burglary. It also considered the circumstantial evidence of minor being detained shortly after the incident, near the scene of the crime, wearing clothing described by Rodriguez, and covered in dirt and leaves. This evidence was reasonable, credible and of solid value. We therefore find substantial evidence to support the juvenile court's true finding that minor committed burglary.

III  
DISPOSITION

The judgment is affirmed.

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RAMIREZ  
P. J.

We concur:

McKINSTER  
J.

KING  
J.