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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re MIGUEL R., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

MIGUEL R.,

Defendant and Appellant.

F062790

(Super. Ct. No. JJD063562)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Valeriano Saucedo, Judge.

Robert Francis McLaughlin, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Michael A. Canzoneri and Angelo S. Edralin, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Cornell, Acting P.J., Gomes, J. and Franson, J.

At the jurisdiction hearing, the juvenile court found true a substantive offense allegation that appellant, Miguel R., a minor, committed a second degree robbery (Pen. Code, §§ 211, 212.5, subd. (c)),¹ and an enhancement allegation that he committed that offense for the benefit of, at the direction of, or in association with, a criminal street gang with the specific intent to promote, further, or assist in, criminal conduct by gang members (§ 186.22, subd. (b)(1)(C)).² At the subsequent disposition hearing, the court continued appellant as a ward of the court, continued him on probation, ordered that he serve 240 to 365 days in the Tulare County Youth Correctional Center Unit, and, based on the instant offense, enhancement, and offenses adjudicated in prior wardship proceedings, declared appellant's maximum term of physical confinement to be 16 years 11 months.

On appeal, appellant contends the evidence was insufficient to support the adjudication of the instant offense and the true finding on the gang enhancement. We affirm.

FACTS

The Instant Offense

Victim's Testimony

On the night of January 2, 2011,³ 10th-grader George R. (George) rode his bicycle to a convenience store (the store) in the town of Cutler, where he lived. Leaving his bicycle outside, approximately one to two feet from the store entrance, he entered the store, at which point he saw appellant, with whom he had gone to school in the eighth grade, and two other males walking out of the store. Neither George nor appellant said anything to the other as George entered and appellant exited the store.

¹ All statutory references are to the Penal Code.

² We refer to the section 186.22, subdivision (b)(1)(C) enhancement as the gang enhancement.

³ All references to dates of events are to dates in 2011.

As he was walking into the store, George heard his bicycle being moved and saw appellant get on it and ride off. George exited the store and told appellant to return the bicycle, but George, who, once outside the store, never got closer than 25 to 30 feet away from appellant, was not sure appellant heard him. As appellant rode away, George began to “follow” him in order to get his bicycle back, but the two persons who had been with appellant “popped out” from their hiding place “behind [a] wall” and told George “not to follow them.” George, who “just wanted to go get [his] bike back,” “didn’t listen to them,” and the two “threw [George] on the ground.” One of the assailants punched George in the back of the head. George was struck multiple times. Other than telling George not to follow them, neither assailant said anything to George.

After he was attacked, George “[w]alked away” and called 911 on his cell phone. Police arrived approximately 10 minutes later.

Other Testimony

Tulare County Deputy Sheriff Sara Coulson testified that after making contact with George at the scene on the night of January 2, she transported him to a Tulare County Sheriff’s Department (TCSD) substation, where she interviewed him. Deputy Coulson testified George told her the following: Three persons approached him “at the liquor store in the parking lot.” The only one he recognized was appellant. As George was walking into the store and appellant was walking out, appellant asked George “if he banged.” George responded, “no, ... he skates only.” Shortly thereafter, as he continued walking into the store “he overheard them say, ‘Let’s take his bike.’” George did not specify which person said this. At some point thereafter, while appellant was on George’s bicycle, appellant said to George, ““You kick it with the wannabee scraps at school.”” Appellant “started riding off,” at which point George “went to get his bike back from [appellant]” However, “two unknown subjects pushed him to the ground and hit him.”

A surveillance video taken with cameras at the store on the night of January 2 was introduced into evidence. The video depicts, among other things, George entering the store as appellant and his two companions exit the store. Deputy Coulson testified that she viewed the video. When asked if the video depicted any “conversation between [appellant] and [George],” she answered, “Not that I could observe.” TCS D Detective Joseph Hart also testified that he viewed the video, including the portion that showed appellant and his two companions leaving the store, and although “[g]enerally[,] ... when people talk to each other, they face each other,” he did not see that occur between appellant and George.

Deputy Coulson further testified that later that night she went to appellant’s residence, which was approximately two or three blocks away from the store, where she found George’s bicycle in the backyard.

Tulare County Deputy Sheriff Christal Derington testified that she interviewed George on January 3, at which time George told her the following: As he was entering the store, “the three individuals at the store” “asked him if he banged.” George “was ... scared and he ... just ignored them and continued into the store.” As “the three individuals were exiting the store,” George heard one of them say, “Let’s take his bike.” Subsequently, when appellant was riding away on George’s bicycle, appellant’s two companions, one of whom George identified from a photographic lineup as John M. (John), “pushed [George] to the ground” and “struck and kicked him.” As they were “striking” him, “They basically said that’s what you get hanging out with scraps.”

Testimony of Expert Witness

The parties stipulated to the “expertise” of TCS D Detective Steven Sanchez “as a gang expert.” The parties also stipulated that the Norteno gang is a criminal street gang within the meaning of section 186.22.

Detective Sanchez testified that both appellant and John are members of, and are “active” within, the Nortenos.

The “Surenos or anyone who decides to go against [the Nortenos]” are “enemies or rivals” of the Nortenos. Members of the Nortenos use the derogatory terms “scrap” and “scrappas” to refer to persons who are “involved in” or are members of “the Sureno gang[.]” A crime committed by a gang member against a person who is “not a member of a rival gang” can “promote or benefit” the member’s gang because “gang members believe they can earn their respect off of fear,” and “committing crimes against an unbiased individual still puts fear into that person as well as the community as a whole.”

“[W]itness intimidation” is a “primary activity” of the Nortenos. When asked, “What could happen to those who testify against gang members,” Detective Sanchez responded, “They’ll be dealt with, such as something from simple assault to a homicide.”

Detective Sanchez was presented with the following hypothetical situation: Outside a convenience store, two Norteno gang members and an “unidentified third person” encounter “someone with a bicycle,” referred to as “the victim,” and one of the three asks the victim “if he bangs.” The victim “responds that he just skates.”

The victim hears one of the three say to his companions, “Let’s take his bike,” and while the victim is “standing a few feet away,” one of the three gets on the victim’s bicycle, “ride[s] off,” and “turns and says to the victim words to the effect of this is because you hang with wannabee scraps at school.” The victim “attempts to pursue but gets knocked or pushed to the ground by the other two individuals and struck a few times.” During the attack, the victim “is told that’s what you get for hanging out with scraps.”

Detective Sanchez opined that “the crime committed under those circumstances [would] promote or benefit” the Nortenos. He explained: The members of the Nortenos described in the hypothetical question “perceive the ... victim as a possible rival Sureno. It was a crime of opportunity and the assault was to send a message to the community as well as to the victim that Nortenos will commit violent assaults and put fear [*sic*].” By “instilling fear in victims or in the community as a whole,” the gang members “make it

less likely” that such persons, because they fear “repercussions,” will “stand up against” the Nortenos. In addition, the offense described in the hypothetical would “bolster” the Norteno “reputation for violence,” “enhance the personal reputation of the Nortenos right in front of the perpetrators of the offense within their own gang,” and “garner respect from other gang members[.]”

DISCUSSION

Sufficiency of the Evidence of Robbery

“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.” (§ 211). Thus, the elements of robbery are: (1) the taking of personal property (2) from a person or the person’s immediate presence (3) by means of force or fear, (4) with the intent to permanently deprive the person of the property. (*Ibid.*; *People v. Marshall* (1997) 15 Cal.4th 1, 34.) Appellant contends the evidence was insufficient to establish the “force or fear” and “immediate presence” elements for robbery. We first set forth the applicable standard of review, and then address the challenged elements in turn.

Standard of Review

The same standard governs review of the sufficiency of evidence in juvenile cases as in adult criminal cases. (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 540.) Under that standard, “we review the whole record to determine whether *any* rational trier of fact could have found the essential elements of the crime ... 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 [trier of fact] 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 [trier of fact] 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. [Citation.]” (*People v. Zamudio* (2008) 43 Cal.4th 327, 357.) ““““To warrant the rejection of the statements given by a witness who has been believed by the [trier of fact], there must exist either a physical impossibility that they are true, or their falsity must be apparent without resorting to inferences or deductions.”” [Citations.]” (*People v. Friend* (2009) 47 Cal.4th 1, 41 (*Friend*).

“Immediate Presence” Element

The taking element of robbery may be established by taking “directly from the victim’s person” *or* from the victim’s immediate presence. (*People v. Harris* (1994) 9 Cal.4th 407, 429 (*Harris*)). ““““[A] thing is in the [immediate] presence of a person, in respect to robbery, which is so within his reach, inspection, observation or control, that he could, if not overcome by violence or prevented by fear, retain his possession of it.”” [Citations.]’ [Citation.] Thus, ‘immediate presence’ is ‘an area over which the victim, at the time force or fear was employed, could be said to exercise some physical control’ over his property. [Citation.]” (*People v. Gomez* (2008) 43 Cal.4th 249, 257 (*Gomez*).

Appellant argues that by the time George left the store, after discovering appellant had taken his bicycle, appellant was approximately 25 to 30 feet away, and by the time George “encountered” appellant’s companions, appellant had “left the scene.” Therefore, appellant asserts, the evidence was insufficient to establish that he took the bicycle from George’s immediate presence because George “did not have the opportunity to retake his property,” and the bicycle was “not within ‘his reach, inspection, observation or control’” when it was taken. We disagree.

We find instructive *People v. Estes* (1983) 147 Cal.App.3d 23 (*Estes*). In that case, a security guard for a Sears store observed the defendant taking property from the store without paying for it. (*Id.* at p. 26.) The security guard followed the defendant outside the store. (*Ibid.*) When they were both about five feet away from the store, the security guard identified himself and confronted the defendant about the stolen items. (*Ibid.*) When the security guard attempted to detain the defendant, the defendant pulled out a knife, swung it at the security guard, and threatened to kill him, at which point the security guard returned to the store for help. (*Ibid.*) The defendant was subsequently convicted of robbery. (*Id.* at pp. 25-26.)

On appeal, the defendant challenged his robbery conviction on various grounds, including that “the merchandise was not taken from the ‘immediate presence’ of the security guard.” (*Estes, supra*, 147 Cal.App.3d at p. 27.) The *Estes* court rejected this argument: “The evidence establishes that the appellant forceably [*sic*] resisted the security guard’s efforts to retake the property and used that force to remove the items from the guard’s immediate presence. By preventing the guard from regaining control over the merchandise, defendant is held to have taken the property as if the guard had actual possession of the goods in the first instance.” (*Ibid.*) The court said “a robbery occurs when defendant uses force or fear in resisting attempts to regain the property or in attempting to remove the property from the owner’s immediate presence regardless of the means by which defendant originally acquired the property.” (*Id.* at pp. 27-28.)

Similarly, in the instant case, the juvenile court, after considering the varying accounts presented in the testimony of George and Deputies Coulson and Derington, reasonably could have concluded that although appellant had taken possession of the bicycle, George had followed appellant with the intention of regaining possession of his property, but was forcibly prevented from achieving that objective by appellant’s companions.

We recognize that in *Estes* the security guard was closer to the robber when he encountered forcible resistance to the retrieval of the stolen property than was the victim in the instant case when he was attacked. Appellant relies on the distance factor. This factor, however, is not determinative.

“[T]he ““person or immediate presence”” requirement of section 211 ‘describes a spatial relationship between the victim and the victim’s property, and refers to the area from which the property is taken.’ [Citations.] ‘Thus, the decisions addressing the “immediate presence” element of robbery have focused on whether the taken property was located in an area in which the victim could have expected to take effective steps to retain control over his property.’” (*Gomez, supra*, 43 Cal.4th at pp. 257-258.) For example, in *Harris, supra*, 9 Cal.4th at pp. 422-424, the victim was forcibly restrained in a car outside her office and home while robbers looted each location; in *People v. Webster* (1991) 54 Cal.3d 411, 439-442 (*Webster*), the defendants induced the victim to walk a quarter-mile away from his car, and then killed him and took his car; in *People v. Hayes* (1990) 52 Cal.3d 577, 626-629, the victim was assaulted and killed 107 feet from the motel office where the property was taken; and in *People v. Bauer* (1966) 241 Cal.App.2d 632, 641-642, the defendant killed the victim inside her apartment, and then stole her keys and took her car that was parked outside.

Here, the court reasonably could have believed George’s testimony that he came within 25 to 30 feet of appellant after appellant took the bicycle, far closer, for example, than the quarter-mile that separated the victim and her property at the point the robbers killed the victim in *Webster*. The court also reasonably could have inferred from Deputy Coulson’s testimony that George got close enough to hear appellant admonish George for “kick[ing] it with wannabe scraps”

The key factor in determining whether the immediate presence element has been established, as demonstrated above, is not the distance between George and the bicycle when he was attacked, but whether George could have recovered his bicycle had he not

been prevented from doing so by that attack. The court reasonably could have concluded that had George not been attacked, and if he were not thereafter subjected to any further force, he simply could have continued to follow appellant and recover his bike, either at appellant's residence, a mere two or three blocks away, or somewhere along the way. On this record, as in *Estes*, the record supports the conclusion that force was used to remove George's bicycle from his "immediate presence," within the meaning of section 211.

"Force or Fear" Element

Appellant also contends the evidence was insufficient to establish the force or fear element of robbery. The People argue that the "force or fear" element was established by the actions of appellant's two companions and that appellant aided and abetted in the commission of the robbery. Appellant counters that no robbery occurred. Rather, he asserts there were two separate offenses committed: a theft of the bicycle, committed by appellant, and, later, an assault committed by appellant's companions. Appellant argues that he "cannot be liable – on an aider and abettor theory – for a robbery his companions did not commit." In our view, the People have the better argument.

Our Supreme Court has articulated what has been commonly been called the natural and probable consequences doctrine as follows: "A person who knowingly aids and abets criminal conduct is guilty of not only the intended crime [target offense] but also of any other crime the perpetrator actually commits [nontarget offense] that is a natural and probable consequence of the intended crime. The latter question is not whether the aider and abettor *actually* foresaw the additional crime, but whether, judged objectively, it was *reasonably* foreseeable. [Citation.], [Citation.] Liability under the natural and probable consequences doctrine 'is measured by whether a reasonable person in the defendant's position would have or should have known that the charged offense was a reasonably foreseeable consequence of the act aided and abetted.' [Citation.]" [¶] But 'to be reasonably foreseeable "[t]he consequence need not have been a strong probability; a possible consequence which might reasonably have been contemplated is

enough” [Citation.]’ [Citation.] A reasonably foreseeable consequence is to be evaluated under all the factual circumstances of the individual case [citation] and is a factual issue to be resolved by the [trier of fact].” (*People v. Medina* (2009) 46 Cal.4th 913, 920.)

From the evidence that either appellant, John or the third member of the group, upon entering the store, said, “Let’s take his bike,” the court reasonably could have concluded that appellant and his companions intended to commit a theft (the target offense) together, and from the fact that appellant rode off on the bicycle, the court reasonably could have concluded further that appellant took one step in carrying out the group’s intent. In addition, based on the evidence that appellant and John were Norteno gang members, and on the expert testimony that members of the Nortenos use violence to achieve their ends—specifically, to intimidate persons who can testify against them—it was reasonably foreseeable that at least one of appellant’s companions would attack George, to intimidate him and/or effectuate the theft of the bicycle, thereby transforming the target crime of theft into a robbery by preventing George from regaining possession of his bicycle by means of force and/or fear.

Appellant’s argument that the evidence establishes that although appellant intended to commit theft, his companions intended to commit only an assault not a robbery, is without merit. As indicated above, robbery requires the taking of another’s property. (§ 211) “‘Taking,’ in turn, has two aspects: (1) achieving possession of the property, known as ‘caption,’ and (2) carrying the property away, or ‘asportation.’” (*Gomez, supra*, 43 Cal.4th at p. 255.) Although the slightest movement may constitute asportation (*People v. Davis* (1998) 19 Cal.4th 301, 305), the robbery continues “as long as the loot is being carried away to a place of temporary safety.” (*People v. Cooper* (1991) 53 Cal.3d 1158, 1165). The “force or fear” element may occur at any point during which the property is being carried to a place of temporary safety, as the crime has not yet concluded. (*Gomez*, at p. 257.) The scene of the crime is not a place of temporary

safety, especially when the victim remains present there. (*People v. Ramirez* (1995) 39 Cal.App.4th 1369, 1375.)

From the evidence that George was in the process of following appellant in an attempt to regain possession of his bicycle when appellant's companions attacked him, the court reasonably could have inferred that appellant had not reached a place of temporary safety at the point his companions forcibly prevented George from going any farther. And from this inference, the court reasonably could have concluded further that appellant's companions intended to prevent George by the use of force and fear from regaining possession of his property, and that they intended to, and did, commit robbery.

On this record, robbery was the foreseeable consequence of appellant's participation in what may have started out as only a theft. Thus, under the natural and probable consequences doctrine, appellant was properly adjudicated of that offense.

Gang Enhancement

Establishing the gang enhancement requires a two-part showing. (*People v. Villalobos* (2006) 145 Cal.App.4th 310, 322.) The prosecution must establish the underlying crime was “[1] committed for the benefit of, at the direction of, or in association with any criminal street gang, [2] with the specific intent to promote, further, or assist in any criminal conduct by gang members” (§ 186.22, subd. (b)(1).) The standards that govern review of the sufficiency of the evidence supporting convictions also apply to enhancements. (*People v. Albillar* (2010) 51 Cal.4th 47, 59-60 (*Albillar*).

Appellant contends the evidence was insufficient to establish either part of the showing required to establish the gang enhancement. In support of this claim he asserts as follows: appellant's conduct was “impulsive and spontaneous,” and not undertaken with his companions in pursuit of a “commonly understood goal;” because he was “already 25 to 30 feet away from the store when George was attacked,” appellant “did not need any assistance from his friends to complete the theft;” the People presented no evidence that “Nortenos know their fellow gang members will back them up;” and there

was no evidence appellant or his companions “did anything to overtly identify themselves with [the Nortenos],” such as “wear gang clothing, present ... gang symbols or flash ... gang signs.” Appellant’s sufficiency-of-the-evidence challenge to the gang enhancement is without merit. We consider the two elements of the gang enhancement separately.

“Benefit, Direction, Association” Element

Appellant, in referring to what he claims was a crime committed impulsively and not in pursuit of a commonly understood goal, and to the absence of any evidence of gang clothing, symbols or signs, appears to invoke the principle that “the Legislature included the requirement that the crime to be enhanced be committed for the benefit of, at the direction of, or in association with a criminal street gang to make it ‘clear that a criminal offense is subject to increased punishment ... only if the crime is “gang related”’” (*Albillar, supra*, 51 Cal.4th at p. 60), and that ““it is conceivable that several gang members could commit a crime together, yet be on a frolic and detour unrelated to the gang.”” (*Id.* at p. 62.) The evidence here, however, does not compel the conclusion that this is such a case.

When we apply the principles of judicial review summarized earlier, we conclude that the court reasonably could have found true each of the facts set forth in the hypothetical question posed to Detective Sanchez. Thus, the court could have concluded that as appellant was taking the bicycle he called George a “wannabe scrap” and that when appellant’s companions were attacking George, at least one of them directed a similar epithet at George. The court also could have credited the detective’s testimony—indeed, it is not disputed—that appellant and John were members of the Nortenos, witness intimidation is a primary activity of the Nortenos, the Sureno gang is a rival gang, and “scraps” is a derogatory term for Sureno members and persons associated with the Surenos used by members of the Nortenos. Finally, based on the forgoing, the court reasonably could have credited Detective Sanchez’s expert opinion testimony that appellant perceived George as a “possible rival Sureno” whom he could intimidate with

violence and that therefore, as the detective further opined, the instant offense was committed for the benefit of a criminal street gang.

Appellant contends the evidence of George's statements to Deputies Coulson and Derington that appellant and one or both of his companions addressed George with a gang-related epithet cannot be considered substantial evidence that the instant offense was gang related because these "unsworn, out-of-court, hearsay statements" "contradicted [George's] own testimony at the jurisdiction hearing and the contents of the surveillance video" There is no merit to this contention.

Any conflicts between the evidence of what George told Deputies Coulson and Derington and George's testimony did not make the evidence of the matters asserted in George's statements to the deputies physically impossible or obviously false. Any such conflicts were for the juvenile court to resolve. (*Friend, supra*, 47 Cal.4th at p. 41.) Moreover, the surveillance video does not contradict George's statements. The video shows appellant riding off on George's bicycle and disappearing from the camera's view, and George following. But the video does not establish that it was physically impossible that George continued to follow appellant and that as he did so, appellant spoke to George outside of the camera's view. Moreover, although the attack on George is not depicted on the video, this absence of video evidence does not establish that attack did not happen, nor does it establish that during the attack appellant's companions did not refer to George as a "scrap."

In any event, irrespective of the evidence of George's statements to the deputies, the evidence was sufficient to establish not only that appellant committed the instant offense for the benefit of a criminal street gang, but also committed the instant offense "in association with" a gang, within the meaning of section 186.22, subdivision (b)(1). On this point we find instructive *People v. Morales* (2003) 112 Cal.App.4th 1176 (*Morales*). In that case three gang members committed a robbery together. In upholding a true finding of an enhancement allegation that required proof that the offense was gang

related, the court acknowledged that arguably, evidence that one gang member committed a crime in association with other gang members, without more, would be insufficient to show that the crime was committed for the *benefit* of the gang. But, the court stated: “The crucial element, however, requires that the crime be committed (1) for the benefit of, (2) at the direction of, *or* (3) in *association* with a gang. Thus, the typical close case is one in which one gang member, acting alone, commits a crime. Admittedly, it is conceivable that several gang members could commit a crime together, yet be on a frolic and detour unrelated to the gang. Here, however, there was no evidence of this. Thus, the jury could reasonably infer the requisite association from the very fact that defendant committed the charged crimes in association with fellow gang members.” (*Id.* at p. 1198.) Here, there was evidence appellant committed the instant offense in association with John, another Norteno gang member, and there was no evidence that appellant and his fellow gang member were engaged in activity unrelated to the gang. Therefore, as in *Morales*, the court reasonably could have inferred appellant acted in “association with” his gang. (§ 186.22, subd. (b).)

“Specific Intent” Element

The evidence was also sufficient to establish the second prong of the required showing, i.e., that appellant acted with the requisite specific intent. The court in *Albillar*, *supra*, 51 Cal.4th 47 stated, “The [gang] enhancement already requires proof that the defendant commit a gang-related crime in the first prong—i.e., that the defendant be convicted of a felony committed for the benefit of, at the direction of, or in association with a criminal street gang. [Citation.] There is no further requirement that the defendant act with the specific intent to promote, further, or assist a *gang*; the statute requires only the specific intent to promote, further, or assist criminal conduct by *gang members*.” (*Id.* at p. 67.) In other words, section 186.22, subdivision (b)(1) “applies when a defendant has personally committed a gang-related felony with the specific intent to aid members of that gang.” (*Albillar, supra*, at p. 68.) The *Albillar* court further

stated, “[I]f substantial evidence establishes that the defendant intended to and did commit the charged felony with known members of a gang, the jury may reasonably infer that the defendant had the specific intent to promote, further, or assist criminal conduct by those gang members.” (*Ibid.*)

Thus here, where substantial evidence establishes that appellant acted in association with at least one gang member, the juvenile court reasonably could assume that appellant acted with the specific intent promote, further, or assist criminal conduct by that gang member. Moreover, it can also reasonably be inferred appellant had the specific intent to promote and/or further criminal conduct by another gang member—himself. (See *People v. Ochoa* (2009) 179 Cal.App.4th 650, 661, fn. 6.) On this record, substantial evidence supports the true finding on the gang enhancement.

DISPOSITION

The judgment is affirmed.