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

In re EDDIE P., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

EDDIE P.,

Defendant and Appellant.

F070240

(Super. Ct. No. JJD067713)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Michael B. Sheltzer, Judge.

Jyoti Malik, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Louis M. Vasquez and Gregory B. Wagner, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Levy, Acting P. J., Gomes, J. and Detjen, J.

INTRODUCTION

The juvenile court adjudged appellant a ward of the court (Welf. & Inst. Code, § 602) after it found true the People’s allegation that appellant had received a stolen vehicle (Pen. Code, § 496d). On appeal, appellant argues there was insufficient evidence to support the finding that he possessed a stolen vehicle. We agree, and we reverse the judgment.

FACTS

On February 27, 2014, Sergeant Curtis Brown was on patrol when he observed a group of five or six individuals, including appellant, standing around a green Acura Integra. As Brown approached the vehicle, the group jumped a nearby fence and fled.

Brown gave chase on foot, and shortly thereafter appellant was apprehended by supporting officers. After his apprehension, appellant admitted the car was stolen and that his fingerprints would be on the exterior of the vehicle. He denied stealing the vehicle, however, and stated that his fingerprints would not be on the interior of the car.

DISCUSSION

Appellant argues there was insufficient evidence to support the finding that he possessed the stolen vehicle. We agree.

“The test for reviewing the sufficiency of the evidence is whether there is substantial evidence to support the conclusions of the trier of fact. The evidence is to be viewed in the light most favorable to respondent, and the existence of every fact that the trier of fact could reasonably deduce from the evidence in support of the judgment is to be presumed.” (*In re Gustavo M.* (1989) 214 Cal.App.3d 1485, 1496-1497.)

In order to sustain a petition on a count of receiving stolen property, the People must prove (1) the property was stolen, (2) the defendant knew the property was stolen, and (3) the defendant had possession of the stolen property. (*People v. Anderson* (1989) 210 Cal.App.3d 414, 420.) Possession cannot be inferred from mere presence or access,

but requires an additional showing of dominion or control over the property in question. (*People v. Land* (1994) 30 Cal.App.4th 220, 225 (*Land*).

Here, the only evidence of possession was appellant's proximity to the stolen vehicle when Sergeant Brown approached. There was no evidence that appellant had driven the car or that appellant had ever been inside the car. And while appellant had fled when approached by the police, such behavior, in and of itself, cannot establish appellant had dominion or control over the vehicle. (See *In re Anthony J.* (2004) 117 Cal.App.4th 718, 729 [evidence showing minor was a passenger in a stolen car and fled from police was insufficient to support a finding of possession].)

Similarly, in *Land, supra*, 30 Cal.App.4th 220, the Second District cited with approval the New Jersey Supreme Court's decision in *State v. McCoy* (1989) 116 N.J. 293, which held that facts showing a defendant had "placed his hands on [a] car with the intent to ride around in it, knowing the driver and knowing the car to be stolen, but [was] not physically present in the car" was insufficient to establish possession of a stolen vehicle. (*Land, supra*, 30 Cal.App.4th at p. 227.)

Accordingly, as there was no additional showing of appellant's dominion or control over the vehicle beyond mere proximity, the evidence was insufficient to establish that appellant had possession of the stolen property.

DISPOSITION

The judgment is reversed.