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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

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

H038634
(Santa Clara County
Super. Ct. No. JV38000)

THE PEOPLE,

Plaintiff and Respondent,

v.

C.B.,

Defendant and Appellant.

C.B., a minor, challenges the juvenile court's finding in a Welfare and Institutions Code section 602¹ proceeding that he engaged in conduct that, if committed by an adult, would constitute second degree robbery (Pen. Code, §§ 211-212.5, subd. (c)). The minor contends there was insufficient evidence to support the court's finding that he used force and fear to accomplish a taking. We conclude that substantial evidence supports the juvenile court's finding and will therefore affirm the judgment.

¹ All further unspecified statutory references are to the Welfare and Institutions Code.

FACTS & PROCEDURAL HISTORY

The minor has been the subject of six petitions in the juvenile court, four filed by the district attorney (§ 602) and two filed by the probation department (§ 777). Before discussing the petition at issue in this case, we review the history of the minor's prior petitions.

Prior Juvenile Court Petitions Regarding the Minor

On January 26, 2011, the district attorney filed a wardship petition (§ 602; hereafter Petition A²) alleging that the minor (age 13) engaged in the following conduct that, if committed by an adult, would constitute: (1) grand theft of personal property worth more than \$400 (Pen. Code, §§ 484-487, subd. (a)) on October 24, 2010, when the minor took marijuana plants from the victim's backyard; (2) attempted first degree burglary (Pen. Code, §§ 664, 459-460, subd. (a)) on October 31, 2010, when the minor entered an enclosed area of a residence without the homeowner's permission; (3) assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1)) on January 14, 2011, when the minor threw a rock at a teacher at school; and (4) three counts of disturbing the peace at school (Pen. Code, § 415.5, subd. (a)) for yelling profanities and threatening other school staff on the day of the rock incident. In March 2011, the minor admitted the allegations of Petition A and was declared a ward of the court. He was returned to the custody of his parents on probation and ordered to complete a 45-day Electronic Monitoring Program.

On September 19, 2011, the district attorney filed a second wardship petition (§ 602; Petition B) alleging that the minor engaged in the following conduct that, if committed by an adult, would constitute: (1) misdemeanor vandalism (Pen. Code, § 594,

² We adopt the record designations used by the Santa Clara County Superior Court, which assigns a single case number to minors who are before the court in delinquency proceedings and refers to successive petitions involving the minor by letter designation.

subds. (a) & (b)(2)(A)) when, on September 5, 2011, he slashed a tire on a car; and (2) two counts of petty theft (Pen. Code, §§ 484-488) when he stole a battery from a hardware store on September 9, 2011, and when he stole socks and men's cologne from a Macy's store on September 10, 2011. In November 2011, the minor admitted the allegations of Petition B. The court sustained the petition. The court ordered the minor returned to the custody of his parents on continued probation, subject to several conditions, including 60 days on the Electronic Monitoring Program.

On December 6, 2011, the probation department filed a probation violation petition (§ 777; Petition C) alleging that the minor violated the conditions of his probation by accumulating over 38 hours of unauthorized leave from the Electronic Monitoring Program; absconding from probation supervision; failing to attend school regularly; failing to obey school rules and regulations; and failing to complete family counseling, psychological counseling, substance abuse counseling, victim awareness classes, and 50 hours of public service work. In February 2012, the minor admitted the probation violations.

On March 14, 2012, the district attorney filed a third wardship petition (§ 602; Petition D) alleging that the minor (age 14 by then) engaged in conduct that, if committed by an adult, would constitute misdemeanor battery (Pen. Code, §§ 242-243, subd. (a)) when, in an unprovoked attack on February 29, 2012, he repeatedly punched another minor at juvenile hall. The minor admitted the allegations of the petition. At the disposition hearing on Petitions C and D, the court continued the minor as a ward of the court, ordered him committed to juvenile hall for 30 days, and continued him on probation with several conditions, including 60 days on the Electronic Monitoring Program.

On May 10, 2012, the probation department filed a petition (§ 777; Petition E) alleging that the minor violated the terms of his probation by accumulating 85 hours of unauthorized leave from the Electronic Monitoring Program, failing to report for a

scheduled appointment, and absconding from probation supervision. On May 11, 2012, the court issued a warrant for the minor's arrest.

Petition At Issue on Appeal

On May 31, 2012, the district attorney filed the petition at issue in this appeal, its fourth wardship petition (§ 602; Petition F) regarding conduct of the minor. Petition F alleged that on May 2, 2012, the minor engaged in conduct that, if committed by an adult, would constitute second degree robbery (Pen. Code, §§ 211-212.5, subd. (c)) when he took a bottle of vodka from a Rite Aid store and its employee, "by means of force and fear." At that time, the minor was still a ward of the court and on probation.

Petition F also alleged that on May 15, 2012, the minor engaged in conduct that, if committed by an adult, would constitute misdemeanor battery (Pen. Code, §§ 242-243, subd. (a)) when he used force and violence against another minor, K.G. The alleged battery occurred when the minor and four other minors challenged a group of minors in front of K.G.'s house. According to the police report, the minor yelled obscenities and threats at the victims; the minor and his friends then " 'dog piled' " on top of K.G. and were "attempting to hit and kick him." The minor and the other assailants fled the scene on foot before the police arrived.

The minor was arrested on May 29, 2012. At a detention hearing on May 31, 2012, the court continued the minor as a ward and detained him at juvenile hall on the allegations of Petitions E and F.

Both petitions were set for a contested jurisdictional hearing on June 21, 2012. At the hearing, the minor admitted the probation violations alleged in Petition E and the battery allegations in Petition F, but denied the robbery allegations. The court held a contested jurisdiction hearing on the robbery allegations in Petitions F.

Evidence Presented at Contested Jurisdiction Hearing Regarding the Robbery

The sole witness at the jurisdiction hearing was Danilo Alegre, a loss prevention officer employed by Rite Aid. Alegre testified that he had worked in loss prevention for 21 years and had worked for Rite Aid for over a year. The evidence included two surveillance videos from the Rite Aid store where the robbery occurred, which depict the liquor aisle and the front entrance of the store. The surveillance videos do not have an audio component.

On May 2, 2012, at approximately 8:00 p.m., Alegre was on duty at the store where the robbery occurred. He was standing outside the store and saw the minor (age 14) and two younger boys enter the store. The boys looked suspicious to Alegre, so he followed them into the store. Alegre was wearing plain clothes: a shirt and jeans. He was not wearing a security uniform or anything that identified him as a Rite Aid employee.

Alegre did not lose sight of the minor after first noticing him. The minor was wearing baggy black pants and an oversized white T-shirt. Alegre followed the minor to the liquor aisle and saw him take a bottle of Absolut vodka from the top shelf and immediately conceal it inside the center front area of his pants. Alegre also saw the two younger boys go to the “cooler section.”³

After taking the vodka, the minor walked to the end of the aisle, turned right twice and walked down the adjacent aisle where the sodas were located. As he walked down the soda aisle, the minor’s hands were at his sides. But at one point, he briefly placed his hands near the area of his belt buckle, where he had concealed the vodka. Alegre followed the minor and saw him walk past all of the open cash registers toward the exterior doors and start to walk out of the store.

³ According to the police report, Alegre saw each of the younger boys take a non-alcoholic beverage bottle and hide it inside his shorts.

There is only one public entrance/exit to the store. It consists of three glass doors: two automatic, electronic doors (an “In” door and an “Out” door) and a third door, which does not appear to have electronic controls and was not used by anyone during the time recorded on the surveillance video. There are four, upright electronic sensors located inside the store, adjacent to the doors.⁴ All of the cash registers are inside the store, seven to eight feet away from the doors.

As soon as the minor stepped past the electronic sensors, onto the mat that activated the “Out” door, Alegre stepped in front of him and attempted to stop him. Alegre identified himself. On direct examination, he testified that he said, “Excuse me, sir. I need to talk to you. I am a loss prevention [*sic*].” He also said, “I need to talk to you regarding the merchandise inside your pants.” On cross examination, Alegre testified that his exact words were: “I need to talk to you. I’m a store security regarding the merchandise inside your pants.” He also testified that it took about two-seconds to introduce himself. Alegre made these statements quickly because, in his experience, people who shoplift “are going to run.”

The minor did not stop or say anything in response to Alegre’s statements. Instead, he swung at Alegre with his right hand, hitting him in the left cheek.⁵ At the time, the minor was holding a cell phone in his right hand. Alegre pushed the minor a few feet back into the store away from the doors and the two struggled there briefly. The minor continued hitting Alegre. This part of their encounter is only partially visible on the surveillance video.

⁴ If a customer leaves the store with an item that has a security tag that has not been deactivated, an alarm will sound. Some, but not all, liquor bottles have security tags. No evidence that a security alarm sounded was introduced.

⁵ Although Alegre testified that the minor hit him in the left cheek, the surveillance video shows him being struck in the right cheek. This discrepancy was not discussed at trial and, in our view, is immaterial. In any event, as we shall explain, the court found Alegre credible.

The minor then exited through the “In” door. Alegre dashed through the “Out” door and stepped in front of the minor and they both moved to the sidewalk outside the store. After they got outside, the minor hit Alegre again, and a struggle ensued in the area just outside the “In” door. That struggle is visible on the surveillance video. As they struggled outside the store, the minor kept hitting Alegre on his back. Alegre and the minor then moved to the sidewalk to the left of the entrance doors, out of view of the surveillance camera. Alegre testified that, while they were struggling outside the store, the bottle of vodka fell to the ground.

After that, an off-duty police officer or correctional officer, who happened to pass by, came over and helped Alegre subdue the minor. The off-duty officer told the minor to sit down and cross his legs and the minor complied. Three other males then came over to the area where the minor was seated; one of them grabbed a potted plant and struck the off-duty officer in the head.⁶ The minor and the other three males then fled before the police arrived. Alegre recovered the vodka. The minor was arrested on May 29, 2012, almost four weeks after the robbery.

The Court’s Findings Regarding the Robbery and Disposition

At the conclusion of the hearing, the court found that the prosecution had proven the robbery allegations true beyond a reasonable doubt and sustained the violations on both the robbery and battery counts. The court stated that it found Alegre “honest and forthright and credible as to all testimony” and noted that Alegre’s recollection was “accurately reflected by” the surveillance videos.

At the disposition hearing on July 9, 2012, the juvenile court continued the minor as a ward of the court and determined that his maximum period of confinement is eight years seven months. In light of his prior performance on probation, the court committed

⁶ It is not clear from the record who the three other males were, but it is clear that they were there to help the minor, not Alegre.

the minor to the county ranch program for six to eight months and imposed other terms and conditions of probation.

DISCUSSION

The minor challenges the sufficiency of the evidence to support the court's true finding on the robbery count in Petition F.

Standard of Review

In considering the sufficiency of the evidence in proceedings before the juvenile court, this court applies the same standard of review that applies in criminal cases. (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 540.)

“At the jurisdictional phase, the juvenile court decides whether the petition concerns a person described in section 602.” (*In re Eddie M.* (2003) 31 Cal.4th 480, 487 (*Eddie M.*); see § 701.) “[T]he petition cannot be sustained absent ‘[p]roof beyond a reasonable doubt supported by evidence [] legally admissible in the trial of criminal cases.’ ” (*Eddie M., supra*, at p. 487; § 701.)

On appeal, however, the test is “ ‘whether there is substantial evidence to support the conclusion of the trier of fact; it is not whether guilt is established beyond a reasonable doubt. [Citation.]’ ” (*In re Ryan N.* (2001) 92 Cal.App.4th 1359, 1372 (*Ryan N.*)) The test is also not whether the defendant presented sufficient evidence to raise a reasonable doubt. (*People v. Battle* (2011) 198 Cal.App.4th 50, 61 (*Battle*) [the defendant's contention that he presented sufficient evidence to raise a reasonable doubt “misstates the standard of review concerning sufficiency of evidence”].) On appeal, “the critical inquiry is ‘whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’ [Citation.]” (*Ryan N., supra*, at p. 1371 citing *Jackson v. Virginia* (1979) 443 U.S. 307, 318-319.)

In undertaking this inquiry, “we review the entire record in the light most favorable to the judgment to determine whether it contains substantial evidence—that is, evidence that is reasonable, credible, and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.] We presume every fact in support of the judgment the trier of fact could have reasonably deduced from the evidence. [Citation.] If the circumstances reasonably justify the trier of fact’s findings, reversal of the judgment is not warranted simply because the circumstances might also reasonably be reconciled with a contrary finding. [Citation.] ‘A reviewing court neither reweighs evidence nor reevaluates a witness’s credibility.’ [Citation.]” (*People v. Albillar* (2010) 51 Cal.4th 47, 60 (*Albillar*).

Thus, “in juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination of whether, on the entire record, there is *any* substantial evidence, contradicted or uncontradicted, which will support the decision of the trier of fact. [Citations.]” (*Ryan N., supra*, 92 Cal.App.4th at p. 1373; italics in original.) “ ‘Before the judgment of the trial court can be set aside for insufficiency of the evidence . . . , it must clearly appear that upon no hypothesis whatever is there sufficient substantial evidence to support it. [Citation.]’ [Citations.]” (*Id.* at p. 1372.)

Further, in assessing the sufficiency of evidence, an appellate court cannot reject factual testimony given by a witness whom the trier of fact found credible unless such testimony is physically impossible or patently false. (*People v. Thornton* (1974) 11 Cal.3d 738, 754 (*Thornton*), disapproved on another ground in *People v. Flannel* (1979) 25 Cal.3d 668, 685.)

Legal Principles Governing Robbery Cases

The Penal Code defines robbery as “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.” (Pen. Code, § 211.) Robbery has been described as a “ ‘species of aggravated larceny’ ” and all of the elements of larceny are incorporated into California’s robbery statute. (*People v. Ortega* (1998) 19 Cal.4th 686, 694; *People v. Williams* (2013) 57 Cal.4th 776, 781-788 (*Williams*) [detailed historical review of the crimes of larceny, robbery, theft, and theft by false pretenses].) “ ‘The greater offense of robbery includes all of the elements of theft, with the additional element of a taking by force or fear. [Citation.] If the defendant does not harbor the intent to take property from the possessor at the time he applies force or fear, the taking is only a theft, not a robbery. [Citations.]’ ” (*People v. Whalen* (2013) 56 Cal.4th 1, 69 (*Whalen*).

“Larceny requires the taking of another’s property, with the intent to steal and carry it away.” (*People v. Gomez* (2008) 43 Cal.4th 249, 254-255 (*Gomez*).

The taking element has “two aspects: (1) achieving possession of the property, known as ‘caption,’ and (2) carrying the property away, or ‘asportation.’ ” (*Id.* at p. 255.) “Although the slightest movement may constitute asportation [citation], the theft continues until the perpetrator has reached a place of temporary safety with the property.” (*Ibid.*)

“Theft by larceny may be committed without force or threat of violence and may be completed without the victim ever being present. [Citation.] To elevate larceny to robbery, the taking must be accomplished by force or fear and the property must be taken from the victim or in his presence. [¶] In robbery, the elements of larceny are intertwined with the aggravating elements to make up the more serious offense.” (*Gomez, supra*, 43 Cal.4th at p. 254.) “[R]obbery, like larceny is a continuing offense” and “[a]ll [of] the elements must be satisfied before the crime is completed.” (*Ibid.*)

“However, . . . no artificial parsing is required as to the precise moment or order in which the elements are satisfied.” (*Ibid.*)

“[T]o support a robbery conviction, the taking, either the gaining possession or the carrying away, must be accomplished by force or fear.” (*People v. Cooper* (1991) 53

Cal.3d 1158, 1165, fn. 8 (*Cooper*).) Thus, “mere theft becomes robbery if the perpetrator, having gained possession of the property without use of force or fear, resorts to force or fear while carrying away the loot” (*ibid.*; *People v. Pham* (1993) 15 Cal.App.4th 61, 65 (*Pham*)), or uses force or fear in attempting to remove the property from the owner’s immediate presence or in resisting the victim’s attempts to regain the property. (*Gomez, supra*, 43 Cal.4th at pp. 259, 264.) The robber must form the intent to steal “before or during rather than after the application of force” and must apply the force for the purpose of accomplishing the taking. (*People v. Bolden* (2002) 29 Cal.4th 515, 556.) As we have noted, robbery is a continuing offense and “[i]f the aggravating factors are in play at any time during the period from caption through asportation, the defendant has engaged in conduct that elevates the crime from simple larceny to robbery.” (*Id.* at p. 258.) “Because larceny is a continuing offense, a defendant who uses force or fear in an attempt to escape with property taken by larceny has committed robbery.” (*Williams, supra*, 57 Cal.4th at p. 787.) Finally, the “robber’s escape with the loot is not necessary to commit the crime.” (*Pham, supra*, 15 Cal.App.4th at p. 65.)

Substantial Evidence Supports the Juvenile Court’s Finding

The minor argues that the evidence was “insufficient to establish that C.B. applied force with the intent to deprive the owner of his property.” He contends “the record establishes that at the instant [the minor] applied force, he abandoned his intent to deprive the owner of his property in favor of fleeing the premises empty handed.” The minor argues: “Although the surveillance footage shows no evidence of any verbal communication, and establishes that less than two seconds passed as Alegre stepped in front of the minor, turned around, and lunged for [the minor] . . . , Alegre variously testified to using exact and comparatively lengthy statements to identify himself as a loss prevention officer during those fleeting moments.” The minor then quotes Alegre’s testimony on cross-examination that his exact words were: “I need to talk to you. I’m a

store security regarding the merchandise inside your pants,” as well as his testimony on direct examination that he said, “Excuse me, sir. I need to talk to you. I am a loss prevention [*sic*],” and “I need to talk to you regarding the merchandise inside your pants.”

The minor’s argument misapprehends our standard of review and asks us to reweigh the evidence, which is not our role. As we have noted, in assessing the sufficiency of evidence, factual testimony given by a witness whom the trier of fact found credible cannot be rejected by an appellate court unless it is physically impossible or patently false, meaning that the falsity of the statements “must be apparent without resorting to inferences or deductions.” (*Thornton, supra*, 11 Cal.3d at p. 754.) The minor’s argument seems to be that it was physically impossible for Alegre to state that he was store security and needed to talk to the minor about the vodka hidden in his pants within the two-second period he testified that it took to introduce himself to the minor.

We have reviewed the surveillance video and it belies some of the minor’s factual assertions. As for the minor’s contention that the video shows no evidence of any verbal communication between Alegre and the minor, our review of the video demonstrates that when Alegre first approached the minor at the exit doors, Alegre’s back was to the camera and his mouth was not visible. Although the video image is not of the highest quality, it shows Alegre’s mouth open when, just a moment later, he turned to block the minor’s path. In addition, the minor turned his head to the right as Alegre stepped alongside of him, from which one could reasonably infer that the minor heard Alegre say something. Rather than demonstrating an impossibility, the video corroborates Alegre’s testimony that he spoke to the minor as he attempted to exit the store.

As for the contention that Alegre could not possibly have communicated all of the information he testified to in two seconds, Alegre testified that he spoke quickly because in his experience shoplifters tend to run. We note also that it was the minor’s counsel who suggested on cross-examination that this portion of the encounter took only two

seconds, based on time mark stamps on the surveillance video. But the encounter between the minor and Alegre appears more fluid than counsel's cross-examination suggested as words appear to have been exchanged as Alegre approached the minor, quickly confronted him, and then began to tussle with him. Furthermore, the juvenile court found Alegre's testimony credible. Based upon our review of the surveillance video, we are not persuaded that Alegre's testimony on these points was physically impossible or patently false, such that we may reject his testimony.

The minor further argues that "Alegre went on to testify that immediately after [the minor] struck him, the minor 'r[a]n towards outside and [Alegre] was able to hold him and the liquor fell onto the ground.'" The minor contends that "[f]rom this testimony, however, it is unclear whether the bottle of vodka was abandoned inside or outside of the store" and that the prosecution's "follow-up questions did little to clarify" the point. In support of this contention, the minor discusses the video evidence in detail and argues that while the minor was inside the store, he kept his hands at his waistline "to hold the bottle in place," and that after he ran for the door, "his hands never returned to his waistline where the bottle of vodka had been stored, and his pants no longer appeared to conceal the bottle."

Again, our review of the surveillance video belies the minor's factual assertions. First, the minor wore an oversized T-shirt over baggy pants. Once he hid the bottle inside his pants, it was not visible on the video. Second, he did not keep his hands at his waist to protect the bottle the entire time he was inside the store. After hiding the bottle on his person, he turned around and walked back up the liquor aisle and down the adjacent soda aisle with his arms at his sides. At one point, he did place his hands near his waist while on the soda aisle. As the minor approached the exit door, his right hand, which held a cell phone, was up near his mouth and his left hand was by his side.

The surveillance video also belies the minor's argument that he could not be guilty of robbery because he abandoned the vodka when skirmishing with Alegre inside the

store during the portion of their encounter that is only partially visible on the surveillance video. The video demonstrates that after Alegre stepped in front of the minor at the exit door and identified himself, Alegre pushed the minor off the door mat and back into the store. The *first* thing the minor did, before he stepped out of view, was punch Alegre. The video shows him swinging at Alegre before the time that he now asserts he abandoned the loot.⁷ Thus, even if the minor abandoned the vodka while struggling with Alegre inside the store, but outside of the camera’s view—as the minor contends—the evidence supports the trial court’s true finding on the robbery count, since all of the elements of the offense occurred before the time the minor argues he abandoned the loot. As the court explained in *Pham*, “a robbery is committed when the defendant has taken possession of the victim’s property and forcibly prevents the victim from regaining the goods, however temporarily.” (*Pham, supra*, 15 Cal.App.4th at p. 68.) “[R]obbery does not require that the loot be carried away after the use of force or fear.” (*Id.* at p. 65.) In addition, there was evidence from which the trier of fact could reasonably have found that the minor abandoned the vodka outside the store. Alegre testified that the liquor “fell to the ground” after the minor “ran towards outside” and the court found that testimony credible.

The minor’s reliance on *People v. Hodges* (2013) 213 Cal.App.4th 531 (*Hodges*) is misplaced. In *Hodges*, a grocery store loss prevention officer, V. Ramirez, saw the defendant place several items in a plastic bag and walk out of the store without paying for them. After asking fellow loss prevention officer J. Anderson for assistance, Ramirez followed the defendant to the parking lot and found him seated in a car with the driver’s side door open. Ramirez identified himself and asked the defendant to step back inside the store. The defendant offered to give the goods back, but Ramirez refused. The defendant started his car engine. Anderson approached and told the defendant he had to

⁷ At oral argument, the minor’s counsel agreed that even under his view of the evidence, the vodka bottle fell out of the minor’s pants *after* he punched Alegre.

return to the store. As the defendant got out of the car, he “ ‘shoved’ ” or “ ‘tossed’ ” the goods at Anderson. The defendant jumped back into the car and attempted to flee. Anderson reached inside the car, tried to turn off the engine, and was injured by the open car door as the defendant backed out of the parking stall and drove away. (*Id.* at pp. 535-536.) On appeal, the defendant alleged that the court erred in responding to a question asked by the jury during its deliberations. Based on prefatory statements in the jury’s question, the appellate court concluded that “the jury sought legal guidance on whether [the] defendant could be convicted of robbery if they determined he ‘surrendered’ the goods prior to the use of force.” (*Id.* at p. 541.) The appellate court held that the trial court’s response to the jury question was misleading “because it allowed the jury to conclude [the] defendant was guilty of robbery without regard to whether defendant intended to permanently deprive the owner of the property at the time the force or resistance occurred.” (*Id.* at p. 543.) But this case is distinguishable from *Hodges* because even under the minor’s view of the evidence (e.g., that he abandoned the vodka inside the store outside of the camera’s view), the minor used force and struck Alegre *before* he abandoned the vodka, whereas there was evidence that the use of force in *Hodges* (both tossing the loot at Anderson and injuring Anderson with the car) occurred *after* the defendant offered to return the goods.

Having carefully reviewed the surveillance video that is part of the record in this case, we conclude that substantial evidence supports the trial court’s implied finding that the minor forcibly asported or carried away the victim’s property when he physically resisted Alegre’s attempts to regain it and that the minor intended to take property from the Rite Aid at the time he applied force by swinging at and punching Alegre. (*Pham, supra*, 15 Cal.App.4th at p. 67; *Whalen, supra*, 56 Cal.4th at p. 69.)

DISPOSITION

The juvenile court’s dispositional order of July 9, 2012 is affirmed.

Márquez, J.

WE CONCUR:

Rushing, P.J.

Grover, J.