Filed 7/30/18 In re F.F. CA2/6

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re F.F., a Person Coming Under the Juvenile Court Law.	2d Juv. No. B284583 (Super. Ct. No. KJ40176) (Los Angeles County)
THE PEOPLE, Plaintiff and Respondent, v. F.F., Defendant and Appellant.	

F.F. appeals a judgment of the juvenile court sustaining a Welfare and Institutions Code section 602 petition and finding that he resisted a peace officer.[1] (Pen. Code, § 148, subd. (a)(1).) We conclude, among other things, that the officer had reasonable

[1] All statutory references are to the Welfare and Institutions Code unless otherwise stated.

suspicion to detain F.F., a minor, who fled after being in a restricted area on school grounds at night. We affirm.

FACTS

At 9:30 p.m., on July 4, 2016, Ronald Cartwright, a school district police officer, was assigned to keep pedestrians out of restricted areas for a fireworks show. This event took place at the Sierra Vista High School baseball fields. School officials had locked gates and erected "temporary" fences to keep people out of a portion of the campus. Cartwright testified his duties included making sure that the school's closed "three-story buildings were safe, nobody was entering it, nobody was hanging out there."

Cartwright saw F.F. and other "juveniles heading towards" a school building. This was an area that had been "closed off to the public." To get into that area, they had to have either climbed over a fence or the "temporary fencing" that had been erected to keep the public out. F.F. was in an area that had "a high crime rate" history, including drug use, "graffiti and vandalism."

Cartwright drove his police car toward this group of minors to make sure this area had not been "spray painted" or vandalized. As he approached, some of the minors ran away. F.F. saw Cartwright and "took off running" towards "classrooms that were closed." He ran up the stairs of a closed school building. He then tried to climb a fence. Cartwright yelled, "Stop. Police."

F.F. did not stop. He continued to climb the fence. Cartwright told him several times to "[l]et go of the fence" and "[c]ome down," but he did not comply. Cartwright grabbed F.F.'s wrist, but he "kept trying to pull away" from the officer. Cartwright "started losing the grip on his wrist" so he grabbed F.F.'s pant leg. F.F. refused to come down. Cartwright told him

that "if he didn't come down," he would "use the taser on him." F.F. came down from the fence.

Cartwright asked F.F. for his mother's name. He responded, "I don't have a mother and why do you need that." Cartwright said, "[G]ive me your parent's name . . . so we can contact your parent." F.F. said he did not know his home address or his parent's phone number. His "evasive" responses to multiple questions prevented Cartwright from obtaining any information about his parents or contact information. Cartwright arrested him.

The People filed a juvenile court petition (§ 602) alleging F.F. resisted, delayed or obstructed a peace officer. (Pen. Code, § 148, subd. (a)(1).) At the trial on the petition, F.F.'s counsel raised the issue of the legality of Cartwright's decision to detain F.F.

The juvenile court found "reasonable suspicion" for Cartwright detaining F.F. based on his "flight" from police and his presence in "a restricted area." It found F.F. was in a place "where frequently police have found wrongdoing," including "drugs" and "vandalism." The court sustained the petition and placed F.F. on home probation.

DISCUSSION

The Legality of the Officer's Detention of F.F.

F.F. contends the juvenile court's sustaining of the petition must be reversed because Cartwright did not have reasonable suspicion to detain him.

Forfeiture of This Issue?

The People contend F.F. forfeited this claim by not filing a section 700.1 motion to suppress evidence. They claim this motion should have been filed "before trial" in the juvenile court. (*In re Steven H.* (1982) 130 Cal.App.3d 449, 453.)

But the People concede that F.F.'s counsel "orally objected to the legality of [F.F.'s] detention" at trial. The People argued this issue *on the merits* in the juvenile court, and the court ruled on that issue in the People's favor. Consequently, the issue of the legality of F.F.'s detention was sufficiently preserved for appeal.

The Standard to Determine the Legality of the Detention

The People claim the standard to be applied for determining the legality of the detention of minors on school property is not reasonable suspicion. They claim it is the lesser standard set forth in *In re Randy G.* (2001) 26 Cal.4th 556. There our Supreme Court held that "detentions of minor students on school grounds do not offend the Constitution, so long as they are not arbitrary, capricious, or for the purposes of harassment." (*Id.* at p. 567.) It ruled "[r]easonable suspicion . . . need not be shown." (*Ibid.*)

The People argue there is no evidence that the detention here violated the *Randy G.* standard. The *Randy G.* issue was not raised or tried in the juvenile court. Instead, the parties asked the court to make fact findings on the reasonable suspicion standard. The trial court made findings applying that standard in favor of the People. As will be seen, because the court correctly found there was a reasonable suspicion to detain F.F. on school grounds, that ruling necessarily determines that the *Randy G.* standard is also satisfied. (*In re Randy G.*, *supra*, 26 Cal.4th at p. 567; *In re Joseph F.* (2000) 85 Cal.App.4th 975, 985-989.)

Reasonable Suspicion for the Detention

The juvenile court found there was "a reasonable suspicion to detain the minor for a crime."

"[T]he temporary detention of a person for the purpose of investigating possible criminal activity may, because it is less intrusive than an arrest, be based on 'some objective

manifestation' that criminal activity is afoot and that the person to be stopped is engaged in that activity." (*People v. Souza* (1994) 9 Cal.4th 224, 230.) "A detention is reasonable under the Fourth Amendment when the detaining officer can point to specific articulable facts that, considered in light of the totality of the circumstances, provide some objective manifestation that the person detained may be involved in criminal activity." (*Id.* at p. 231.) "'The possibility of an innocent explanation does not deprive the officer of the capacity to entertain a reasonable suspicion of criminal conduct. Indeed, the principal function of [police] investigation is to resolve that very ambiguity and establish whether the activity is in fact legal or illegal . . . .'" (*Id.* p. 233.)

In *Souza*, the court highlighted the type of facts courts may consider in determining whether reasonable suspicion exists. It said, "[F]light from police is a proper consideration--and indeed can be a key factor--in determining whether in a particular case the police have sufficient cause to detain." (*People v. Souza*, *supra*, 9 Cal.4th at p. 235.) "No single fact--for instance, flight from approaching police--can be indicative in *all* detention cases of involvement in criminal conduct. Time, locality, lighting conditions, and an area's reputation for criminal activity all give meaning to a particular act of flight, and may or may not suggest to a trained officer that the fleeing person is involved in criminal activity." (*Id.* at p. 239.)

"An area's reputation for criminal activity is an appropriate consideration in assessing whether an investigative detention is reasonable under the Fourth Amendment." (*People v. Souza*, *supra*, 9 Cal.4th at p. 240.) "The time of night is another pertinent factor in assessing the validity of a detention." (*Id.* at p. 241.)

F.F. contends "[r]easonable suspicion should not be created because [he] did precisely what the police officer's job was to insure that he did--leav[e]the restricted area." He suggests he did this by fleeing from Cartwright and climbing the fence to be out of that area. But his selective view of the record, considered in isolation, is not dispositive.

Here the juvenile court correctly found there was a combination of factors that supported a finding of reasonable suspicion. F.F. was not on a public street. He was a juvenile on school property at night. (*In re Joseph F.*, *supra*, 85 Cal.App.4th at pps. 985-989.) He was in a restricted area only accessible by climbing locked gates and fences. He was in a place that had "a high crime rate" history including drug use, "graffiti and vandalism." As the trial court found, F.F. fled from police. Cartwright's duties included protecting school property from vandalism. F.F. ran up the steps of a closed school building. His actions and the actions of other minors in the group were highly suspicious as they were in the restricted area and they fled when they saw Cartwright. (*In re Jose Y.* (2006) 141 Cal.App.4th 748, 753 ["The mere fact he had no legitimate business on campus created a reasonable need to determine whether or not he posed a danger"].) Given the totality of the circumstances, Cartwright had reasonable suspicion for the detention. (*People v. Souza*, *supra*, 9 Cal.4th at pps. 239-241.)

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

PERREN, J. TANGEMAN, J.

Phyllis Shibata, Commissioner

Superior Court County of Los Angeles

Esther R. Sorkin, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Susan Sullivan Pithey, Supervising Deputy Attorney General, Nikhil Cooper, Deputy Attorney General, for Plaintiff and Respondent.