

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

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

B236571
(Los Angeles County Super. Ct.
No. FJ49427)

THE PEOPLE,

Plaintiff and Respondent,

v.

Y.C.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Robin Miller Sloan, Judge. Modified and Affirmed.

Mary Bernstein, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Steven E. Mercer and Thomas C. Hsieh, Deputy Attorneys General, for Plaintiff and Respondent.

Minor, Y. C., appeals from the juvenile court's order declaring her a ward of the court under Welfare and Institutions Code section 602, after sustaining allegations that she committed robbery and carjacking (Pen. Code, §§ 211, 215, subd. (a)).¹ Minor was ordered suitably placed for a maximum period of confinement of nine years. Minor contends substantial evidence does not support the robbery finding that she took property from the victim with intent to permanently deprive him of the property. She further contends the eight-month maximum period of confinement for the robbery finding should be stayed and the minute order of the dispositional hearing should be corrected to reflect the maximum period of confinement for carjacking is nine years. We stay the eight-month maximum period of confinement for the robbery finding, order the minute order corrected to reflect the maximum period of confinement for carjacking is nine years, and otherwise affirm the judgment.

FACTS

On August 30, 2011, at 5:30 p.m., minor and another girl, Jessica, approached Moises Gonzalez at 2339 South Hooper Avenue near his parked Nissan Pathfinder and demanded his car keys. Two female companions of the girls stood at a distance, so that Gonzalez was surrounded by all four girls. Jessica gestured as if she were pointing a gun at Gonzalez from inside her purse. He gave them the keys, and they drove away.

At 9:40 that night, the police apprehended minor and Jessica driving Gonzalez's car at a high rate of speed at Hooper Avenue and 28th Street. Minor admitted she took the car. She stated to the police: "I was walking with the homegirl Jessica to the Metro station, and this fool pulls up in a black truck, and then he talking about to get on the fucking car, and we said no, and he passes like four times, and the fourth time he passed

¹ Hereinafter, all statutory references are to the Penal Code, unless otherwise indicated.

he got us with a strap, and as I seen the strap, I just waited till he got close to me, and I pepper sprayed his ass because I was afraid that I would get blasted, and then we just took off in his car.” Jessica stated she took the car because “he deserved it.”

DISCUSSION

Substantial Evidence

Minor contends substantial evidence does not support the finding she took the car with the intent to permanently deprive Gonzalez of the car. We disagree with the contention.

“The same standard governs review of the sufficiency of evidence in adult criminal cases and juvenile cases: we review the whole record in the light most favorable to the judgment to decide whether substantial evidence supports the conviction, so that a reasonable fact finder could find guilt beyond a reasonable doubt.” (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 540.) “‘The standard of review is the same when the prosecution relies mainly on circumstantial evidence.’ [Citation.]” (*People v. Burney* (2009) 47 Cal.4th 203, 253.)

“[R]obbery is the taking of ‘personal property in the possession of another, against the will and from the person or immediate presence of that person, accomplished by means of force or fear and with the specific intent permanently to deprive such person of such property’ (CALJIC No. 9.40.)” (*People v. Burney, supra*, 47 Cal.4th at p. 253.) Specific intent to deprive the owner of possession of his vehicle may be inferred from the facts and circumstances. (*People v. Ivans* (1992) 2 Cal.App.4th 1654, 1664-1665 [“in most cases, evidence of intent [is] only circumstantial”].) “California’s intent-to-deprive-permanently requirement . . . is not to be taken literally.” (*People v. Avery* (2002) 27 Cal.4th 49, 56.)

Substantial evidence supports the finding minor took the car with the specific intent to permanently deprive Gonzalez of his property. Minor’s admission she took

Gonzalez's car and the evidence she demanded the car keys while she and her companions surrounded Gonzalez with Jessica apparently pointing a gun at Gonzalez indicate minor took the car by means of force. She was still riding in the car over four hours later, with no sign she intended to return the car or abandon it where it could be recovered intact by Gonzalez. Indeed, her bogus description of the incident to the police contains no suggestion she wanted Gonzalez ever to have his car back.

Minor asks this court to take our own look at the evidence and reach the conclusion she merely took the car for a joyride. This is a request we reweigh the evidence, which we will not do. (*People v. Manriquez* (2005) 37 Cal.4th 547, 577-578.) As required by the applicable standard of review, we view the evidence in the light most favorable to the judgment, drawing all inferences in support of the findings. The evidence was sufficient for the trial court to conclude minor committed robbery of Gonzalez.

Minute Order of Dispositional Hearing on October 11, 2011

The trial court set the maximum period of confinement at nine years, which is the maximum punishment for carjacking. (§ 215, subd. (b).) The court did not stay the eight-month term for the robbery finding. The minute order states terms of nine years for the carjacking and eight months for the robbery.

Minor contends, respondent agrees, and we concur the eight-month term should be stayed under section 654, subdivision (a)² and the minute order should be corrected to reflect the maximum period of confinement is nine years.

² Section 654, subdivision (a) provides: "An act or omission that is punishable in different ways by different provisions of law shall be punished under the provision that provides for the longest potential term of imprisonment, but in no case shall the act or omission be punished under more than one provision."

DISPOSITION

The eight-month maximum period of confinement for the robbery finding is stayed pursuant to Penal Code section 654. The clerk of the superior court is directed to correct the minute order of the hearing on October 11, 2011, to reflect a maximum period of confinement of nine years for the carjacking count and the eight-month term for the robbery count is stayed. In all other respects, the judgment is affirmed.

KRIEGLER, J.

We concur:

TURNER, P. J.

MOSK, J.