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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re FRANCISCO V., a Person Coming
Under the Juvenile Court Law.

B246227

(Los Angeles County
Super. Ct. No. MJ21190)

THE PEOPLE,

Plaintiff and Respondent,

v.

FRANCISCO V.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Akemi Arakaki, Judge. Affirmed.

Jasmine Patel, 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, Scott A. Taryle and Stacy S. Schwartz, Deputy Attorneys General, for Plaintiff and Respondent.

Francisco V., a minor, appeals from an order of the juvenile court sustaining a petition under Welfare and Institutions Code section 602 that charged him with battery on two school employees. Appellant contends the evidence is insufficient to sustain the court's finding. We disagree and affirm the order.

FACTS AND PROCEEDINGS

Appellant was a student at Eastlake High School in Lancaster. One morning a teacher saw appellant and two other students smoking as they sat against a wall in the athletic field. Two campus security officers, Jorge Vega and Terry Rasch, went to investigate. The students did not attempt to run and they did not resist when Vega and Rasch confiscated their backpacks. After the backpacks were secured, Vega commenced a pat down search of the students.

Vega told appellant to stand up, place his hands behind his back and interlace his fingers. Appellant complied. In the course of the search, Vega found two lighters inside appellant's pocket and a medicine bottle appearing to contain marijuana. Aware that appellant had just returned to school after being suspended for marijuana use, Vega asked appellant: "Why would you put your mother through this again?" Appellant replied: "Fuck you" and tried to pull out of Vega's grasp. Vega responded by pinning appellant against the wall and attempting to handcuff him. In his struggle to escape from Vega, appellant managed to pull his hands free from Vega's grip and pushed Vega by placing both hands against Vega's body. In his effort to flee, appellant touched or pushed Vega on his arms, chest and shoulder. Rasch came to assist Vega. He put appellant in a "bear hug" but appellant continued to thrash about attempting to get away. Rasch testified: "[H]is arms were kind of flailing. Not necessarily striking at me, but just moving around[.]" Vega and Rasch managed to handcuff appellant who then calmed down. When the struggle ended Rasch had "scrap[.]ed" the side of his face and his elbow. He testified he didn't know how he received these injuries but that they must have occurred during the scuffle because he did not have them before.

Appellant testified that after Vega made the remark about appellant's mother, Vega grabbed appellant and pushed him against the wall. After appellant hit the wall he turned around and "pushed [Vega] back." Vega responded by grabbing appellant's arm and putting him in some type of "hold." Appellant testified that when Vega pulled appellant's arm up and behind his back, it hurt and he pushed Vega to try to get away.

The juvenile court found that appellant committed two counts of misdemeanor battery and placed him on six months probation. Appellant filed a timely appeal.

DISCUSSION

The court found appellant committed battery on a school employee under Penal Code section 243.6, which applies when "a battery is committed against a school employee engaged in the performance of his or her duties . . . and the person committing the offense knows or reasonably should know that the victim is a school employee[.]" There is no dispute that when this incident occurred Vega and Rasch were school employees engaged in the performance of their duties and appellant was aware of these facts.

Appellant contends the evidence is not sufficient to support the juvenile court's finding that he committed battery on Vega and Rasch. He argues that he lacked the requisite intent to commit a battery on the officers and that his actions demonstrate that he was simply trying to get away from the physical force they were exerting on him. There is no merit to this contention.

Battery consists of the "willful and unlawful use of force or violence upon the person of another." (Pen. Code, § 242.) It is a general intent crime meaning that the only intent required is the intent to do the act that constitutes the crime. (*People v. Colantuono* (1994) 7 Cal.4th 206, 217.) We find no merit in appellant's argument that a new "[c]hild [s]tandard for [r]easonableness" should apply to the intent element of battery. For one thing, appellant is not a "child." He was 15 years of age when the incident occurred and therefore "presumed to understand the wrongfulness of [his] acts." (*In re Manuel L.* (1999) 7 Cal.4th 229, 232; see also Pen. Code, § 26 [children under the age of 14 are

presumed not capable of committing crimes].) Furthermore, the cases appellant cites do not deal with a juvenile offender's intent. (*Graham v. Florida* (2010) 560 U.S. 48 [limits on punishment that can be exacted on minors]; *Roper v. Simmons* (2005) 543 U.S. 551 [same]; *J.D.B. v. North Carolina* (2011) ___ U.S. ___, 131 S.Ct. 2394 [*Miranda* warnings to juveniles].)

Appellant's use of force on Vega and Rasch was unlawful because neither of them used unreasonable or excessive force to detain and search appellant. (Cf. *In re Joseph F.* (2000) 85 Cal.App.4th 975, 989.) The testimony of Vega and Rasch shows that they used force against appellant only when he attempted to break away from Vega who was attempting to detain him for crimes committed on the school grounds. The court impliedly found that the detention, and the force used to accomplish the detention, were reasonable under the circumstances and we see no reason to overturn those findings. Accordingly, appellant had no privilege or right of self-defense to resist the officers. (*Id.* at pp. 989-990.)

DISPOSITION

The order is affirmed.

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ROTHSCHILD, Acting P. J.

We concur:

CHANEY, J.

JOHNSON, J.