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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re MARIA T., a Person Coming
Under the Juvenile Court Law.

2d Juv. No. B286326
(Super. Ct. No. YJ39249)
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

MARIA T.,

Defendant and Appellant.

Maria T. appeals an order of the juvenile court sustaining the allegations of a Welfare and Institutions Code section 602 petition and declaring her a ward of the court. We conclude that sufficient evidence exists that Maria T. committed the misdemeanor offense of carrying a loaded firearm in a vehicle, and affirm. (Pen. Code, § 25850, subd. (a).)¹

¹ All further statutory references are to the Penal Code.

FACTUAL AND PROCEDURAL HISTORY

In the evening of May 12, 2017, Culver City Police Officer William Kakuk patrolled in a marked patrol vehicle. He noticed another vehicle and confirmed by its license plate number that the vehicle was stolen. Kakuk followed the vehicle for a few minutes as he awaited assistance. Kakuk then stopped the stolen vehicle near National and Shafer Boulevards, and Police Officer Andrew Bellante ordered its four occupants to step outside. Maria T. left the vehicle by the rear passenger door behind the front passenger seat.

Kakuk searched the vehicle and discovered a gun box and a loaded 10-round magazine in a backpack, both lying on the front passenger floorboard. Inside the glove compartment, he found a loaded semiautomatic handgun. Kakuk examined the handgun and concluded that it was “lubricated, oiled, and in good working condition.”

Bellante later interviewed Maria T. Following advice and waiver of her rights pursuant to *Miranda v. Arizona* (1966) 384 U.S. 436, she informed Bellante that she and the other occupants of the vehicle were traveling to Burbank to attend a party. Maria T. admitted that prior to the traffic stop, she and the others “pass[ed] the gun around.”

At the adjudication hearing, Maria T. testified that she did not know the occupants of the stolen vehicle. During her earlier arraignment, Maria T. stated to the court: “Miss, I swear, like, I didn’t even know I was in a ‘G’ ride. He fucking had that gun.”

The juvenile court sustained the allegations of the petition, declared Maria T. a ward of the court, and ordered her suitable placement. In ruling, the trial judge stated that she did not find Maria T. to be a credible witness.

Maria T. appeals and contends that there is insufficient evidence that she, a backseat passenger, carried a loaded firearm within the meaning of section 25850, subdivision (a).

DISCUSSION

Maria T. argues that there is insufficient evidence that she carried a firearm or that she knew or reasonably should have known that the firearm was loaded. She asserts that the jurisdictional finding denies her due process of law pursuant to the California and United States Constitutions.

In reviewing the sufficiency of evidence to support a conviction, we examine the entire record and draw all reasonable inferences therefrom in favor of the judgment to determine whether there is reasonable and credible evidence from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. (*People v. Brooks* (2017) 3 Cal.5th 1, 57; *People v. Johnson* (2015) 60 Cal.4th 966, 988.) Our review is the same in a prosecution primarily resting upon circumstantial evidence. (*Johnson*, at p. 988.) We do not redetermine the weight of the evidence or the credibility of witnesses. (*People v. Albillar* (2010) 51 Cal.4th 47, 60; *People v. Young* (2005) 34 Cal.4th 1149, 1181 [“Resolution of conflicts and inconsistencies in the testimony is the exclusive province of the trier of fact”].) We must accept logical inferences that the jury might have drawn from the evidence although we would have concluded otherwise. (*People v. Streeter* (2012) 54 Cal.4th 205, 241.) “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.” (*Albillar*, at p. 60.) Moreover, the testimony of a single witness is

sufficient to prove a fact. (*People v. Richardson* (2008) 43 Cal.4th 959, 1030-1031.)

The sufficiency of evidence in a particular case depends upon the factual circumstances in that case. (*People v. Thomas* (1992) 2 Cal.4th 489, 516.) A finding of sufficiency in one case does not suggest that weaker factual circumstances in another case will not support a conviction. (*Ibid.*) In our review, we focus upon the evidence that was presented, rather than evidence that might have been but was not presented. (*People v. Story* (2009) 45 Cal.4th 1282, 1299.)

Section 25850, subdivision (a) provides: “A person is guilty of carrying a loaded firearm when the person carries a loaded firearm on the person or in a vehicle while in any public place or on any public street in an incorporated city” Section 25850 is derived from former section 12031, subdivision (a) without substantive change. Judicial decisions interpreting former section 12031 remain “relevant” in interpreting section 25850, subdivision (a). (*People v. Wade* (2016) 63 Cal.4th 137, 140.)

The offense of carrying a firearm in a vehicle does not require any action on the defendant’s part beyond merely having the gun available for use. (*People v. Arzate* (2003) 114 Cal.App.4th 390, 400.) “Carrying” a firearm means to convey, transport, or transfer from one place to another. (*In re Charles G.* (2017) 14 Cal.App.5th 945, 952, citing *People v. Overturf* (1976) 64 Cal.App.3d Supp. 1, 6.) The act of carrying is distinct from the act of possessing. (*Ibid.*) “[P]ossession charges may be based on an act that would also constitute carrying, but the crime of possession reaches a considerably broader range of conduct than that of carrying a concealed weapon.” (*Ibid.*)

[adjudication properly based upon minor carrying a concealed firearm as well as minor in possession of firearm].)

Sufficient evidence exists that Maria T. carried the handgun within the meaning of section 25850, subdivision (a). During her police interview, Maria T. admitted that she and the other occupants of the vehicle “pass[ed] the gun around.” Maria T. handled the handgun containing the loaded magazine and thus was aware of its presence in the vehicle. She had actual possession of the handgun albeit for a short time during the “passing” of the weapon. Section 25850 does not require proof that she was the legal owner of the firearm or was armed with it; the section punishes the “carrying” of a loaded firearm in a vehicle. “Neither ownership, possession, custody or control is a statutory element in the unlawful carrying of a loaded firearm in a vehicle.” (*In re Charles G.*, *supra*, 14 Cal.App.5th 945, 952.)

Moreover, section 25850, subdivision (a) does not include a knowledge requirement that the firearm was loaded or that the defendant should have known that the firearm was loaded. (*People v. Garcia* (2007) 153 Cal.App.4th 1499, 1514, fn. 3 [“Knowledge that the firearm is loaded is not necessary to violate [former] section 12031, subdivision (a)”]; *People v. Dillard* (1984) 154 Cal.App.3d 261, 263.)

People v. Gonzales (2015) 232 Cal.App.4th 1449 and *In re Jorge M.* (2000) 23 Cal.4th 866 do not compel a different result. *Gonzales* involved a conviction pursuant to section 26100 of “knowingly” permitting a passenger to carry a loaded firearm in a vehicle. (*Id.* at pp. 1452-1453.) Section 25850, subdivision (a) does not include a knowledge requirement – different statute, different result.

In re Jorge M., *supra*, 23 Cal.4th 866, 873, involved the unrelated question whether an unregistered assault weapon should be considered a public welfare offense. Our Supreme Court held that the statute was not a public welfare offense and, therefore, the prosecution must prove that the defendant knew or reasonably should have known the firearm fell within former section 12280. (*Id.* at p. 887.) *Jorge M.* did not involve an analysis of section 25850. Indeed, the opinion pointed out that knowledge a gun is loaded has been held not to be an element of misdemeanor carrying a loaded firearm in a vehicle. (*Jorge M.*, at p. 876.)

In view of our discussion, we need not discuss Maria T.'s related claim that she received the ineffective assistance of counsel.

The judgment is affirmed.

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GILBERT, P. J.

We concur:

PERREN, J.

TANGEMAN, J.

Irma J. Brown, Catherine J. Pratt, Judges

Superior Court County of Los Angeles

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