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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re U.R., a Person Coming Under
the Juvenile Court Law.

2d Juv. No. B295064
(Super. Ct. No. VJ46395)
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

U.R.,

Defendant and Appellant.

U.R. appeals orders of the juvenile court sustaining the allegations of a Welfare and Institutions Code section 602 petition, declaring him a ward of the court, and placing him home on probation. We conclude that sufficient evidence exists that U.R. committed felony burglary. (Pen. Code, §§ 459, 462.)¹ We affirm.

¹ All further statutory references are to the Penal Code.

FACTUAL AND PROCEDURAL HISTORY

Lazaro Morales lived with his mother, sister, and brother, Randy S., in South Gate. The children had separate bedrooms; Morales "always" locked his bedroom door from the outside. Randy and U.R. were longtime best friends and schoolmates. U.R. frequently visited in Randy's home and was known to the family.

Morales kept a safe on the floor near the closet in his locked bedroom. Inside the safe were four bank envelopes containing cash amounting to approximately \$28,000. One of the four envelopes contained \$3,000 in cash belonging to Morales's mother. Morales took money from the envelopes from time to time, but kept dated records of the amounts withdrawn.

In the late afternoon of June 30, 2018, Morales returned home and entered his bedroom. He opened his safe and noticed that approximately \$6,000 in cash was missing from the envelopes. His mother's envelope was completely empty. When Morales left the home earlier that day, he had approximately \$28,000 inside his safe. The bedroom's air conditioner also had been removed and lay on Morales's bed. In addition, the drywall was damaged near the air conditioning vent.

Morales left his bedroom to confront his brother Randy and U.R. who were in the living room. Morales demanded his money and Randy instructed U.R. to give Morales "his money back." U.R. reached under the sofa and took between \$500 and \$900 and handed it to Morales. Currency also lay on the dining room table. Morales then demanded that U.R. leave.

Afterwards, Randy informed Morales that U.R. had the majority of the money taken from the safe. Randy admitted that he and U.R. entered Morales's bedroom and took the money.

Randy explained that he had entered the bedroom through the air conditioner vent, pushing the air conditioner onto the bed. Once inside, he opened the door to allow U.R. to enter. Randy unlocked the safe with a spare key that Morales believed he had lost. Randy admitted taking approximately \$8,000 from the safe. He then handed the spare key to Morales. Randy also admitted that he and U.R. took approximately \$900 from Morales's safe several weeks earlier.

Morales noticed a minor whom he did not recognize standing outside. Randy informed Morales that he had given some of the currency to the minor. The minor then returned a couple hundred dollars to Morales.

Approximately 30 minutes later, U.R. returned to the house. He spoke with police officers outside the residence and gave them several hundred dollars and some cannabis wax that he purchased with the stolen money.

Later, Morales telephoned his mother and she recommended that he "[j]ust call the cops." She stated: "It's getting out of hand. That's too much. He took too much."²

The juvenile court sustained the allegations of the petition alleging commission of felony burglary and felony grand theft, declared U.R. a ward of the court, and placed him home on probation. (§§ 459, 462, subd. (a), 487, subd. (a).)

U.R. appeals and contends that there is insufficient evidence that he entered Morales's bedroom with the intent to commit a felony or that he aided and abetted a burglary.

² The evidence does not indicate whether Morales's mother was present in the home during the burglary. Morales's act of telephoning her to complain about the theft suggests that she was not.

DISCUSSION

U.R. argues that there is insufficient evidence that he knew of Randy's intent to steal or that he assisted him in stealing from the safe. He asserts that he was merely present during Randy's theft. U.R. points out that a conviction resting upon insufficient evidence denies him 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 trier of fact 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.) This standard of review also applies in juvenile matters. (*In re M.S.* (2019) 32 Cal.App.5th 1177, 1185.)

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 459 provides in part that "[e]very person who enters any house, room . . . with intent to commit grand or petit larceny or any felony is guilty of burglary." (*People v. Colbert* (2019) 6 Cal.5th 596, 608 [entering an interior room that is objectively identifiable as off-limits may constitute burglary]; *People v. McCormack* (1991) 234 Cal.App.3d 253, 256 [entry into a room of a structure with required intent constitutes burglary].) Thus, entry into a bedroom within a single-family residence with the requisite intent can support a burglary conviction even if that intent was formed only after the entry into the larger structure. (*People v. Sparks* (2002) 28 Cal.4th 71, 73, 87.) Treating such an entry as a burglary is consistent with the personal security concerns underlying the burglary statute. (*Id.* at p. 87.) Furthermore, section 460, subdivision (a) provides that burglary of an inhabited dwelling is first degree burglary.

Sufficient evidence exists that U.R. intended to burglarize Morales's bedroom and that he aided and abetted Randy in the commission of grand theft. Randy breached Morales's bedroom by entering the room through the air-conditioning vent. Thereafter, he opened the locked door for U.R. to enter. Inside, Randy and U.R. took cash from Morales's safe as they had done several weeks previously.

Randy was not an occupant of Morales's locked bedroom nor did he possess keys to the door. Morales testified that "[the door] has a lock. Like I always lock it. I have a personal key for it." Unless a person has an unconditional possessory right to enter as the occupant or is invited in by the occupant who knows of and endorses the felonious intent, the person is guilty of burglary. (*People v. Salemm* (1992) 2 Cal.App.4th 775, 781.)

Moreover, an individual, who, with knowledge of the unlawful purpose of a principal, forms the intent to commit, encourage, or facilitate the commission of a burglary prior to the principal's departure from the structure, may be liable as an aider and abettor. (*People v. Montoya* (1994) 7 Cal.4th 1027, 1042.) Relevant factors in determining whether a person aided and abetted a crime include presence at the crime scene, companionship, and conduct before and after the offense. (*People v. Battle* (2011) 198 Cal.App.4th 50, 84.) Here U.R. awaited Randy's climb through the air conditioning vent in order that Randy could unlock Morales's door. A reasonable inference from this evidence is that U.R. served as a lookout while Randy entered Morales's bedroom. (*People v. Frye* (1985) 166 Cal.App.3d 941, 948.) The two men then took money from Morales's safe as they had done previously. When Morales returned home and learned some of his cash had been stolen, he confronted Randy and U.R. who were standing together in the living room. U.R. reached under the sofa and returned some cash to Morales; other cash lay on the dining room table. All reasonable inferences from this evidence support the factual conclusion that U.R. aided and abetted the burglary and theft of Morales's cash.

The orders are affirmed.
NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Nancy L. Newman, Judge

Superior Court County of Los Angeles

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