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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re S.L., a Person Coming
Under the Juvenile Court Law.

2d Jud. No. B282342
(Super. Ct. No. TJ21039)
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

S.L.,

Defendant and Appellant.

S.L., a minor, appeals from an order declaring that he remain a ward of the court (Welf. & Inst. Code, § 602) after the juvenile court found true the allegation that he committed a second degree robbery (Pen. Code,¹ § 211). The court terminated

¹ Further unspecified statutory references are to the Penal Code.

a previous order of home on probation and ordered S.L. to be suitably placed in an open facility.

S.L. contends there was insufficient evidence to prove he aided and abetted a robbery. The Attorney General argues no error, but contends remand is necessary to allow the juvenile court to calculate predisposition custody credits. We remand the case for the limited purpose of calculating S.L.'s predisposition custody credits, but otherwise affirm.

FACTUAL AND PROCEDURAL HISTORY

Hector Flores was at a taco stand when he took his cell phone out to answer a call. Flores was standing with his back turned toward a group of "boys," including S.L., when he felt a "blow" to his ear and someone grabbing his phone from behind. Flores saw S.L. running away with his phone. Flores said that S.L. held up the phone and yelled to the other boys "an iPhone, an iPhone." S.L. ran off into an alley together with another boy.

Flores saw a police officer and told him that the "person who was running over there had just robbed" him of his phone. The officer saw S.L. running with a phone and another individual "trailing" behind. About 15 minutes later, officers found S.L. and two other individuals at a staircase in front of S.L.'s home. An officer found Flores's phone in the staircase. Flores identified S.L. as one of the individuals who ran away with his phone.

At the conclusion of the hearing, the juvenile court found beyond a reasonable doubt that S.L. was an aider and abettor in the robbery.

DISCUSSION

Aiding and Abetting

S.L. claims his conviction should be reversed because there was insufficient evidence that he aided and abetted the robbery. We disagree.

We review the juvenile court's finding that S.L. aided and abetted in the commission of the robbery for substantial evidence. (*In re Gary F.* (2014) 226 Cal.App.4th 1076, 1080 (*Gary F.*)). We construe 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.) Substantial evidence is "evidence which is reasonable, credible, and of solid value." (*People v. Johnson* (1980) 26 Cal.3d 557, 578.) In determining whether sufficient evidence exists to support the judgment, we do not reweigh the evidence or make determinations of witness credibility. (*People v. Jennings* (2010) 50 Cal.4th 616, 638 (*Jennings*)). We presume all facts in support of the judgment that could reasonably be deduced from the evidence. (*Id.* at pp. 638-639.)

A conviction for aiding and abetting requires that the person (1) acts with knowledge of the unlawful purpose of the perpetrator, (2) intends to commit, encourage, or facilitate the commission of the crime, and (3) aids, promotes, or encourages the commission of the crime. (*People v. Prettyman* (1996) 14 Cal.4th 248, 259.) Mere presence at the crime scene alone is insufficient to establish that a person is an aider or abetter. (*People v. Richardson* (2008) 43 Cal.4th 959, 1024.) However, it is a factor that can be considered together with other factors such

as companionship, conduct before and after the offense, and flight. (*Gary F.*, *supra*, 226 Cal.App.4th at p. 1080.)

Substantial evidence supports the court's finding that S.L. aided and abetted the robbery. Flores testified that S.L. was in a group of boys standing behind him moments before someone stole his phone from behind. Shortly thereafter, Flores saw S.L. holding up his phone, yelling "an iPhone, an iPhone" to the other members of his group, and running away with another person.

An officer confirmed seeing S.L. holding the phone after the robbery and running away with another person. About 15 minutes after the robbery, the group of boys gathered at a staircase near S.L.'s home, and the police found Flores's phone at the same location.

Based on this evidence, the court reasonably inferred that S.L. and at least one other member of the group were "companions acting in concert according to a common plan such that [S.L.] had foreknowledge of the [robbery] and harbored the intent to encourage or facilitate it." (*Gary F.*, *supra*, 226 Cal.App.4th at p. 1081.)

S.L. argues that the evidence was insufficient. He emphasizes that Flores's testimony regarding identification was inconsistent and contends that the only indisputable evidence was that S.L. was in the vicinity of the robbery, which alone is insufficient. But we do not determine whether substantial evidence supports a finding in favor of S.L.; but rather, the other way around. We do not reweigh the evidence, and we resolve all conflicts in favor of the judgment. (*Jennings*, *supra*, 50 Cal.4th at p. 638.) Sufficient evidence supports the finding that S.L. was an aider and abettor in the robbery.

Credits Calculation

The Attorney General requests a limited remand for the juvenile court to calculate predisposition custody credits. We agree that remand is necessary.

“[A] minor is entitled to credit against his or her maximum term of confinement for the time spent in custody before the disposition hearing. [Citations.] It is the juvenile court’s duty to calculate the number of days earned, and the court may not delegate that duty. [Citations.]” (*In re Emilio C.* (2004) 116 Cal.App.4th 1058, 1067.)

Here, S.L. was ordered to be placed in an open facility, which is not a physical confinement. (*In re Harm R.* (1979) 88 Cal.App.3d 438, 443-445.) However, if S.L. is placed in physical confinement in the future, he would be entitled to any predisposition custody credit for the time spent in custody. (*Id.* at p. 445.) Because S.L. was placed in custody before his disposition hearing, he should have been awarded predisposition custody credits. Therefore, remand is necessary to allow the court to calculate these credits. (*In re Emilio C., supra*, 116 Cal.App.4th at p. 1068.)

DISPOSITION

The order is remanded to the juvenile court to calculate S.L.’s predisposition custody credits. The clerk of the court is directed to amend the minute order to reflect the credit calculation. In all other respects, the order is affirmed.

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TANGEMAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

Catherine J. Pratt, Judge

Superior Court County of Los Angeles

Holly Jackson, under appointment by the Court of
Appeal, for Defendant and Appellant.

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