Filed 7/18/12 In re Armando T. CA2/4

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re ARMANDO T., a Person Coming Under the Juvenile Court Law. _____ THE PEOPLE, Plaintiff and Respondent, v. ARMANDO T., Defendant and Appellant.	B234606 (Los Angeles County Super. Ct. No. NJ25896)

APPEAL from judgment of the Superior Court of Los Angeles County, Deborah B. Andrews, Judge. Affirmed.

Lea Rappaport Geller, 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, Paul M. Roadarmel, Jr. and Nima Razfar, Deputy Attorneys General, for Plaintiff and Respondent.

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Appellant Armando T., a minor, appeals from the juvenile court's order declaring him a ward of the court under Welfare & Institutions Code Section 602, after sustaining allegations that he committed second degree robbery. (Pen. Code, § 211.) He contends there is insufficient evidence to support the court's finding. We find sufficient evidence and affirm the judgment.

FACTUAL AND PROCEDURAL SUMMARY

After a school day in May 2011, appellant was walking with Gustavo H. and Jeffrey C. behind victim Rodrigo, a 13-year-old boy. Jeffrey suggested they "jack" Rodrigo. Rodrigo was walking down the street listening to his iPod when the three boys approached him from behind and surrounded him. Appellant was the biggest boy there. Appellant stood in front of Rodrigo and asked where he was from. Rodrigo was scared and believed the boys were gang members. The other two boys stood on Rodrigo's sides and went through his pockets while appellant laughed. Gustavo and Jeffrey took Rodrigo's iPod. Appellant and Jeffrey ran away while Gustavo stayed behind and told Rodrigo that they would not give back the iPod and they were gang members. After Rodrigo chased Jeffrey, he saw a police vehicle and told the officer what happened. Appellant, Gustavo, and Jeffrey were arrested. While they were in the same holding cell, appellant gave Detective Lawson Rodrigo's iPod and said he obtained it from Jeffrey in order to return it.

In June 2011, the Los Angeles County District Attorney filed a petition pursuant to Welfare and Institutions Code section 602 alleging one count of second degree robbery. (Pen. Code, § 211.)[1] The court denied appellant's motion to dismiss and sustained the petition. The court declared appellant a ward of the court, placed him in a short-term camp program, and ordered a maximum term of confinement to be aggregated with two unrelated petitions for a total not to exceed

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[1] All statutory references are to the Penal Code.

five years and six months. Appellant filed a timely notice of appeal from the judgment.

DISCUSSION

Appellant moved to dismiss the petition alleging there was insufficient evidence to prove he stole the victim's iPod. Specifically, he argues there is no evidence he intended to steal the iPod so the judgment must be reversed. We disagree and affirm.

A court reviewing a challenge based on insufficiency of evidence views the record in the light most favorable to the judgment to determine if there is substantial evidence from which any reasonable trier of fact could find the defendant to be guilty beyond a reasonable doubt. (*People v. Castaneda* (2011) 51 Cal.4th 1292, 1322 (*Castaneda*).) "Unless it describes facts or events that are physically impossible or inherently improbable, the testimony of a single witness is sufficient to support a conviction." (*People v. Elliott* (2012) 53 Cal.4th 535, 585, citing *People v. Young* (2005) 34 Cal.4th 1149, 1181.) This standard applies in juvenile delinquency cases. (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 540.)

Robbery is the "felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear." (§ 211.) To prove robbery, the prosecution must establish the defendant took property from the victim "by means of force or fear with the specific intent to permanently deprive him of that property. [Citation.]" (*People v. Young*, *supra*, 34 Cal.4th 1149, 1176–1177; See also *People v. Lopez* (2003) 31 Cal.4th 1051, 1058; § 211.) "'A person aids and abets the commission of a crime when he or she, (i) with knowledge of the unlawful purpose of the perpetrator, (ii) and with the intent or purpose of committing, facilitating or encouraging commission of the crime, (iii) by act or advice, aids, promotes, encourages or instigates the commission of the crime.'

[Citations.]" (*People v. Hill* (1998) 17 Cal.4th 800, 851 (*Hill*), overruled on another point in *Price v. Superior Court* (2001) 25 Cal.4th 1046, 1069, fn. 13.)

In *Hill*, the court found sufficient evidence to prove intent for aiding and abetting a robbery when the defendant and two other men surrounded a car and one of the men stole a passenger's purse. (*Hill, supra*, 17 Cal.4th at pp. 851–852.) The court stated, "[f]rom these facts, the jury could reasonably infer that defendant and [the man who physically stole the purse] were working together. Certainly their behavior immediately prior to the crimes in question (standing together and then approaching the car by spreading out and surrounding it) suggests a preconceived plan of attack." (*Ibid.*)

Even if appellant did not touch Rodrigo's iPod, there is still substantial evidence to find appellant aided and abetted the commission of the crime. Appellant contends conflicts between Rodrigo's testimony, appellant's testimony, and what Rodrigo said to the police officer means there is insufficient evidence to sustain the petition. However, under the substantial evidence standard, we must take all evidence in the light most favorable to the judgment. (*Castaneda, supra*, 51 Cal.4th at 1322.) Moreover, the juvenile court explicitly credited Rodrigo's testimony. The court found Jeffrey said he was going to "jack" the victim before the boys approached. At that point, it is reasonable to infer appellant knew Jeffrey's purpose. Appellant then stood in front of Rodrigo while the other boys went through Rodrigo's pockets. Appellant knew Jeffrey intended to steal, and blocking Rodrigo from leaving while laughing at him is evidence of his intent to facilitate the robbery. As in *Hill*, the three boys approached and surrounded the victim together. This, along with evidence that appellant fled after Jeffrey took the iPod, is sufficient for a trier of fact to find intent. Finally, standing in front of Rodrigo aided commission of the robbery by preventing Rodrigo from fleeing. We conclude there is substantial evidence to find each element of second degree robbery and affirm.

DISPOSITION

The judgment is affirmed.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

SUZUKAWA, J.