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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re M.F., a Person Coming
Under the Juvenile Court Law.

2d Juv. No. B293804
(Super. Ct. No. YJ39462)
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

M.F.,

Defendant and Appellant.

M.F. appeals from the judgment entered after the juvenile court sustained a juvenile wardship petition (Welf. & Inst. Code, § 602) for resisting, delaying, or obstructing a peace officer. (Pen. Code, § 148, subd. (a)(1).)¹ The trial court declared

¹ All further statutory references are to the Penal Code.

the offense a misdemeanor, placed appellant on six months probation, and ordered restitution. We affirm.

Facts

On November 3, 2017, Los Angeles Police Officer Chris Jones and his partner approached six individuals who were drinking and loitering around a vehicle that was illegally parked. Officer Jones detained appellant's father, Alberto Flores, to cite him for drinking and the illegally parked car. Angry, appellant approached the officers and shouted "Fuck off. Get out of here. Leave us alone." Over the next two to three minutes, Officer Jones tried to deescalate the situation and ordered appellant to "Get back, get back. Let us deal with the situation." Defiant, appellant stood a foot from the officer and continued yelling.

Officer Jones tried to calm appellant and move him away, but appellant flailed his arms and yelled "Fuck off; get the fuck off me." Officer Jones pushed appellant up against a car to handcuff him but appellant elbowed him and started to pull away, causing the officer to trip. Because it was close encounter, Officer Jones did not have room to use a baton, Taser, or pepper spray. Instead, Officer Jones punched appellant twice in the face to gain compliance.

Appellant was maneuvered to the ground and tucked his arms under his stomach to avoid being handcuffed. The group rushed forward, yelling "Let's get him; let's get him. Get him off of him," but quickly dispersed when the sound of sirens approaching were heard. Officer Jones handcuffed appellant and transferred custody to another officer after backup arrived.

At the adjudication hearing, appellant admitted that he ignored Officer Jones' orders and yelled "You ain't shit without the badge." The trial court found that appellant

“overreacted” and “[Officer Jones] did what he thought was appropriate [to control the situation] [¶] . . . I don’t find it to be excessive [force] under the circumstances.”

Substantial Evidence

Appellant contends that the evidence does not support the finding that he obstructed Officer Jones because excessive force was used. As in any sufficiency of the evidence appeal, we review the record in the light most favorable to the judgment and presume the existence of every fact the trier of fact could reasonably deduce from the evidence in support of the judgment. (*In re Chase C.* (2015) 243 Cal.App.4th 107, 113.)

Obstruction of a peace officer occurs where the defendant willfully delays, obstructs, or resists a peace officer while the officer is engaged in the performance of his or her duties. (§ 148, subd. (a)(1).) The crime may be committed by merely delaying an officer in the performance of his or her duties. (*In re Muhammed C.* (2002) 95 Cal.App.4th 1325, 1330; *People v. Quiroga* (1993) 16 Cal.App.4th 961, 968.) Obstruction of a peace officer is not limited to physical resistance and can include verbal interference if it substantially interferes with the officer’s lawful duties. (*People v. Christopher* (2006) 137 Cal.App.4th 418, 431-432 [giving officer false name].)

Appellant confronted Officer Jones and was verbally abusive as the officer tried to issue a citation to appellant’s father for drinking in public and the illegally parked car. Defiant, appellant told the officer to “fuck off” and refused to step back. Despite Officer Jones’ attempt to deescalate the situation, appellant flailed his arms, elbowed the officer, and refused to submit to detention. The evidence clearly shows that appellant delayed, obstructed, and resisted an officer. (See, e.g., *In re J.C.*

(2014) 228 Cal.App.4th 1394, 1397-1399 [noncompliance with officer's orders to sit down and calm down and later order to submit to detention].)

Appellant argues that Officer Jones used excessive force and was not engaged in the performance of his duties. (See *In re Manual G.* (1997) 16 Cal.4th 805, 815.) Part of the corpus delicti of the offense is that the officer was acting lawfully at the time the offense was committed. (*People v. Jenkins* (2000) 22 Cal.4th 900, 1020 (*Jenkins*).) Officer Jones punched appellant to gain compliance after appellant elbowed him and tried to pull away. Ample evidence supported the finding that the use of force was objectively reasonable. (*People v. Gutierrez* (2009) 174 Cal.App.4th 515, 524-525 [punching defendant reasonable where defendant was the aggressor and alternative methods of control failed].) Appellant complains that Officer Jones used his knee to hold him down, but appellant was resisting and the group was rushing the officer, yelling “Get him off of him.”

An officer's alleged use of excessive force after the defendant has obstructed or resisted the officer does not negate a violation of section 148, subdivision (a)(1). (*People v. Williams* (2018) 26 Cal.App.5th 71, 87.) If “the officer was acting lawfully *at the time* the offense . . . was committed,” it is not a “bar to the defendant's conviction of section 148(a)(1), even if [the] officer subsequently uses excessive force on the defendant.” (*Ibid.*)

Appellant verbally and physically resisted the officer for two to three minutes before appellant was subdued and wrestled to the ground.² “The subsequent use of excessive force

² Appellant argues that a phone video shows that excessive force was used, but the video only depicted the arrest, after appellant was lying on the ground. The trial court “admitted [the

[does] not negate the lawfulness of the initial arrest attempt, or negate the unlawfulness of the criminal defendant's attempt to resist it” (*Yount v. City of Sacramento* (2008) 43 Cal.4th 885, 899.) Appellant’s belief about whether Officer Jones was or was not acting lawfully is irrelevant. (*Jenkins, supra*, 22 Cal.4th at p. 1021.) It is settled that a custodial officer may use reasonable force in his or her duties to restrain a person, to overcome resistance, to prevent escape, or in self-defense. (CALCRIM No. 2671.)

The judgment is affirmed.

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YEGAN, J.

We concur:

GILBERT, P. J.

TANGEMAN, J.

video] by reference” but did not receive the video into evidence, nor did appellant provide a copy of the video or a transcript of its contents. (Cal. Rules of Court, rule 2.1040(b).) The video is not part of the record on appeal and may not be considered on appeal. (*Frank v. County of Los Angeles* (2007) 149 Cal.App.4th 805, 815.)

J. Christopher Smith, Judge

Superior Court County of Los Angeles

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