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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

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

THE PEOPLE,

Plaintiff and Respondent,

v.

A.A.,

Defendant and Appellant.

B283694

(Los Angeles County  
Super. Ct. No. FJ53392)

APPEAL from a judgment of the Superior Court of Los Angeles County, Robert J. Totten, Commissioner. Affirmed.

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

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Noah P. Hill and David A. Voet, Deputy Attorneys General, for Plaintiff and Respondent.

Minor A.A. appeals from the juvenile court's order determining that he was a ward of that court because he helped rob two people at gunpoint. Minor contends there was insufficient evidence that he aided and abetted those crimes. We affirm because the evidence supports a finding that the minor took a sufficiently active role in the crimes to support aider and abettor liability.

### **FACTS AND PROCEDURAL HISTORY**

In the afternoon of April 25, 2017, Jorge G. and Israel D. were eating pizza with friends at Lexington Park when they were approached by 16-year-old A.A. (appellant) and minor S.S.<sup>1</sup> S.S. asked Jorge and Israel where they were from. The victims were from El Salvador and had trouble speaking English, so appellant translated for them. S.S. told the victims they were in his neighborhood and asked if they belonged to a gang. The victims said they did not belong to a gang.

S.S. and appellant left, but returned about 20 minutes later accompanied by two masked men armed with semi-automatic handguns. One of the armed men pointed his gun at Jorge. S.S. told the victims to hand over "everything [they] had," and specified that Jorge should hand over his cell phone, chain, and earrings. S.S. tugged at Jorge's earrings, but Jorge had trouble removing one and gave the other to S.S. Jorge testified that appellant was "behind" during this period, but the point was never clarified and it is therefore unclear where appellant was

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<sup>1</sup> Minor S.S. was tried along with appellant and was also found to be a ward of the juvenile court for his part in the robberies. Although the record is unclear, it appears that Israel D. and Jorge G. were minors at the time. We will sometimes refer to them collectively as "the victims."

standing. However, it is undisputed that appellant said and did nothing as the actual robbery unfolded.

One of the armed assailants took Israel's phone and chain and S.S. grabbed his hat. Appellant and his three companions fled the park, two leaving together in one direction, and two in another.

Jorge and Israel borrowed a phone from a passerby and called the police. They then went to a nearby T-Mobile shop to see if they could track Jorge's cell phone. Los Angeles Police Officer Daylon Gomez met the victims there and broadcast a description of the robbers. Appellant, S.S., and a man named Holt were detained sometime later at Lemon Grove Park, which was a couple of miles from the park where the robbery took place. Holt had Jorge's hat and S.S. had Jorge's chain. Jorge identified S.S. and appellant from a photo lineup while Israel, during a field show up, separately identified appellant, S.S., and Holt as the people who robbed him.<sup>2</sup> However, Los Angeles Police Officer Ricardo Zepeda testified that, after interviewing Holt, he determined that Holt had not been present during the robbery.

The Los Angeles County District Attorney's Office filed a petition alleging that appellant was a ward of the juvenile court (Welf. & Inst. Code, § 602) for taking part in two counts of robbery (Pen. Code, § 211). After hearing the evidence, the court denied a defense motion to dismiss, rejecting appellant's contention that there was insufficient evidence of aiding and abetting because he took no more than a passive role and had merely been present during the robbery. The juvenile court found it was reasonable to infer that appellant and S.S. had been "trolling . . . the victims" to determine if they were vulnerable,

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<sup>2</sup> Holt was apparently identified by his clothing.

then returned with the two gunmen in order to carry out the robbery. That appellant translated for S.S. during their initial contact, and that he left with S.S. at the end, further cemented the court's conclusion.

The court found the allegations of the petition were true and that the crimes were felonies, and placed appellant in community camp for five to seven months.

### **DISCUSSION**

Appellant contends there was insufficient evidence that he aided and abetted the robberies of Jorge and Israel. The standard of proof is the same here as it is in adult criminal trials. (*In re Gary F.* (2014) 226 Cal.App.4th 1076, 1080.) In assessing the sufficiency of the evidence, we must review the whole record in the light most favorable to the judgment to determine whether it contains substantial evidence that would allow a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt. (*Ibid.*) In doing so, we must presume in support of the judgment every fact the trier of fact could reasonably deduce from the evidence, and must draw all reasonable inferences to that effect that the evidence will allow. (*Ibid.*)

Liability as an aider and abettor requires proof that the defendant acted with knowledge of the direct perpetrator's unlawful purpose, did so with the intent or purpose of committing, encouraging, or facilitating the commission of that crime, and, by act or advice, aided, promoted, encouraged, or instigated the commission of the crime. (*People v. Prettyman* (1996) 14 Cal.4th 248, 259.) Mere presence at the scene of a crime or the failure to take action to prevent a crime are insufficient standing alone to constitute aiding and abetting, although they are factors that may be considered. (*People v.*

*Nguyen* (1993) 21 Cal.App.4th 518, 529-530.) Other factors that may be considered include: “companionship, and conduct before and after the offense. [Citations]” (*In re Lynette G.* (1976) 54 Cal.App.3d 1087, 1094-1095 [fleeing with direct perpetrators instead of disassociating herself from them tended to show aiding and abetting] (*Lynette G.*)).

Appellant contends that the evidence shows he did nothing more than translate for the victims when he and S.S. first approached them, and then merely stood by out of sight while S.S. and the two armed men robbed the victims. He did and said nothing to carry out the robbery, and was not in possession of the victims’ property when he was arrested. We reject appellant’s attempt to minimize his participation in the robbery.

Appellant does not dispute that S.S. was an active participant in the robbery. S.S. approached the victims and asked them for their gang affiliation, and appellant translated for S.S. Appellant and S.S. walked off and returned a short time later with two masked men carrying handguns, then stood nearby and watched as the other three robbed the victims. Appellant fled with one of the other three and was found at a nearby park some hours later accompanied by S.S. and Holt, each of whom were in possession of some of the items taken from the victims.

It is not much of an inferential stretch to find from this that appellant and S.S. first approached the victims to scout them out as potential robbery targets, then left briefly in order to locate and return with their two armed companions, especially in light of the fact that the two other men had masked their faces and were carrying handguns. (*People v. Campbell* (1994) 25 Cal.App.4th 402, 409 [defendant did not merely happen by the

crime when he and the direct perpetrator had walked by the victims a few minutes earlier and then returned]; *In re Jose T.* (1991) 230 Cal.App.3d 1455, 1460-1461 [defendant's knowledge of direct perpetrator's unlawful purpose could be inferred because defendant knew the perpetrator was armed and stood by while a carjacking occurred].)

Furthermore, appellant and the three direct perpetrators fled at the same time in separate pairs, and appellant was found not far away in the company of S.S., who had Jorge's chain. Taken as a whole, this evidence and its attendant inferences is more than enough to support the juvenile court's finding that appellant aided and abetted in the robberies. (See *Lynette G.*, *supra*, 54 Cal.App.3d at pp. 1094-1095.)

#### **DISPOSITION**

The judgment is affirmed.

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MICON, J.\*

We concur:

WILLHITE, Acting P. J.

COLLINS, J.

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\*Judge of the Los Angeles County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.