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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FOUR

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

THE PEOPLE,

Plaintiff and Respondent,

v.

TYRONE M.,

Defendant and Appellant.

B242523

(Los Angeles County
Super. Ct. No. JJ19569)

APPEAL from an order of the Superior Court of Los Angeles County, Donna Quigley Groman, Judge. Affirmed.

Jennifer Gerard, 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, Steven D. Matthews and Analee J. Brodie, Deputy Attorneys General, for Plaintiff and Respondent.

Minor Tyrone M. appeals from an order sustaining a juvenile wardship petition. (Welf. & Inst. Code, § 602 (section 602).) He contends the evidence was insufficient to support the juvenile court's true finding on a misdemeanor charge of simple assault. (Pen. Code, § 240.)¹ We reject his contention and affirm.

BACKGROUND

On February 7, 2012, Christopher V. was visiting his girlfriend, appellant's sister, at the home where she lived with her parents and siblings, including appellant. Appellant told Christopher to leave their home. When Christopher did not leave, a fight broke out. Christopher suffered an injury to his face, which was bleeding, and called the police. Appellant, who had blood on the front of his shirt, overheard Christopher stating on the phone that appellant had hit him on the face with a construction tool. Appellant ran from his home and was apprehended across the street when the police arrived.

The Los Angeles County District Attorney's Office filed a section 602 petition alleging that appellant had assaulted Christopher with a deadly weapon, a felony. (Pen. Code, § 245, subd. (a).) At the close of the prosecution's case-in-chief, the juvenile court concluded the evidence was insufficient to establish the use of a deadly weapon. After the juvenile court reduced the allegation to the lesser included misdemeanor offense of "simple assault" (Pen. Code, § 240), appellant testified that he was acting in self-defense. In light of appellant's contention on appeal that the evidence was insufficient to support a true finding on the misdemeanor assault allegation, we discuss the evidence in greater detail below.

¹ The juvenile court declared appellant a ward of the court and, after removing him from the custody of his parents and committing him to the care, custody, and control of the probation department, ordered him suitably placed. The court set the maximum period of confinement at six months.

I. Prosecution Evidence

The prosecution's two witnesses were Christopher, who testified that he could not recall the events on the date in question, and Los Angeles Police Department Officer Francisco Elizarraraz.

Christopher testified that he has been on medication for epileptic seizures since he was 10 years old. As a result of his seizures, he did not remember much about the incident in question. Christopher did not recall if anything "physical" happened that day. Christopher did not remember telling the police that appellant had hit him in the face with a construction tool.

Officer Elizarraraz testified that when he arrived at appellant's home on February 7, 2012, he found Christopher sitting on the front steps "with a bloody nose and a blood[y] mouth" and "bloodshot" eyes. Christopher made several statements to the officer including that: (1) appellant disliked Christopher and disapproved of his relationship with appellant's sister; and (2) after Christopher refused appellant's demand to leave their house, appellant hit him in the face with an implement that the officer described as "a trowel."²

Officer Elizarraraz recovered from the residence a "trowel" that was booked into evidence. The officer did not recall seeing any blood on the trowel, which would have been noted in the police report if that were the case.

Appellant was apprehended by Officer Elizarraraz's partner at a location across the street from appellant's residence. Appellant was wearing a white t-shirt that had blood on the front. Appellant had stitches on his hand from a prior injury.

II. Defense Evidence

Appellant testified that he was acting in self-defense. He testified that because Christopher and his friends were smoking marijuana and "talking smash to me, . . . I told them to please leave. He didn't leave and then he pushed me so I pushed back."

² The admission of Christopher's extrajudicial statement is not at issue on appeal.

Appellant stated that Christopher was “trying to hit my head against the . . . washing machine in the kitchen.” Christopher “pushed me, and [my sister] helped him. My sister started to hassle with me, so I defended myself and I barely hit him.” “I punched him” in the face, but “I . . . barely tapped him. I didn’t really even punch him.”

Appellant testified that after the altercation, he went to speak with his brother, who was asleep in another room. Appellant overheard Christopher calling the police, who arrived in about “two minutes.” Appellant ran from the house after overhearing Christopher’s phone call to the police because he “felt scared, like they were going to take me to jail, because [Christopher] lied and made a fake police report and said I hit him with a tool. But it never — I never hit him with a tool. I hit him with my hand.”

Appellant denied hitting Christopher with anything other than his fist. However, appellant admitted there was a construction tool in the room where the altercation occurred. He described the tool, which he believed was used to scrape paint, as about seven inches long with a plastic handle and a rigid metal blade.

III. Juvenile Court Ruling

Appellant’s counsel argued that appellant had acted in self-defense: “The important thing is the burden of proof, which is on the People to prove that this wasn’t self-defense beyond a reasonable doubt, which clearly they haven’t done.” Appellant’s counsel contended that Christopher was not a credible witness and “was most likely high” during the incident because his “eyes were bloodshot and red, which is consistent with just having smoked marijuana.”

Appellant’s counsel conceded there was evidence that appellant had fled with blood on his shirt, but argued that appellant’s flight was understandable because he was “scared after the fight. He’s 14 years old. He heard Christopher on the phone with the police accusing him of attacking him with a weapon. You know, it’s — it would have been reasonable for him to assume that, you know, he was . . . going to get in trouble when the police showed up. So I don’t think we can put too much stock in the fact that he ran. I mean, obviously, it[’s] not a crime to run in the first place.”

The prosecutor argued that appellant's testimony that he was acting in self-defense was not credible. The prosecutor argued that appellant's flight from his own home was evidence of his guilt as the instigator of a fight and, because Christopher is "a person of small stature" who is not "physically impressive," it "stretches . . . credibility" to infer that appellant fled because he was afraid of being harmed by Christopher. The prosecutor emphasized that "[t]his took place in the minor's home. Self-defense, seems to me, human nature that a person's first response, something in the home, is that they would stick around if they had not done something wrong."

The juvenile court found appellant's testimony that he was acting in self-defense was not credible. The court found the officer's testimony, coupled with Christopher's extrajudicial statement, sufficient to find the assault allegation true beyond a reasonable doubt. The juvenile court stated: "The court, in piecing together the testimonies of each of the witnesses, cannot sustain a self-defense defense on behalf of the minor, and it does appear that the minor was an aggressor."

DISCUSSION

Appellant argues on appeal that because the prosecution failed to refute his testimony that he was acting in self-defense, the evidence was insufficient to support a true finding on the assault allegation. We conclude the contention lacks merit.

I. Standard of Review

"As a preliminary matter, we note that on this appeal challenging the sufficiency of the evidence to support a juvenile court judgment sustaining the criminal allegations of a petition made under the provisions of section 602 of the Welfare and Institutions Code, we must apply the same standard of review applicable to any claim by a criminal defendant challenging the sufficiency of the evidence to support a judgment of conviction on appeal. Under this standard, the critical inquiry is 'whether, after reviewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could

have found the essential elements of the crime beyond a reasonable doubt.’ (*Jackson v. Virginia* (1979) 443 U.S. 307, 318-319.) An appellate court ‘must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence—that is, evidence which is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.’ (*People v. Johnson* (1980) 26 Cal.3d 557, 578; see also *People v. Jones* (1990) 51 Cal.3d 294, 314.)

“In reviewing the evidence adduced at trial, our perspective must favor the judgment. [Citations.] ‘This court must view the evidence in a light most favorable to respondent and presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence. [Citation.] If the circumstances reasonably justify the trial court’s findings, reversal is not warranted merely because the circumstances might also be reasonably reconciled with a contrary finding. [Citations.] The test on appeal is whether there is substantial evidence to support the conclusion of the trier of fact; it is not whether guilt is established beyond a reasonable doubt. [Citation.] [¶] Before the judgment of the trial court can be set aside for insufficiency of the evidence . . . , it must clearly appear that upon no hypothesis whatever is there sufficient substantial evidence to support it. [Citation.]’ (*People v. Redmond* (1969) 71 Cal.2d 745, 755; [citation].)” (*In re Ryan N.* (2001) 92 Cal.App.4th 1359, 1371-1372.)

II. Self-defense

“Self-defense negates culpability for assaultive crimes, whether or not the assault results in death. [Citations.] In either event self-defense goes directly to guilt or innocence. [Citations.] On matters directly going to guilt or innocence, the burden of persuasion is on the state. [Citations.]” (*People v. Adrian* (1982) 135 Cal.App.3d 335, 340-341.)

CALCRIM No. 3470 provides in relevant part: “Self-defense is a defense to _____ <insert list of pertinent crimes charged>. The defendant is not guilty of (that/those crime[s]) if (he/she) used force against the other person in lawful (self-

defense/[or] defense of another). The defendant acted in lawful (self-defense/[or] defense of another) if:

“1. The defendant reasonably believed that (he/she/[or] someone else/[or] _____<insert name of third party>) was in imminent danger of suffering bodily injury [or was in imminent danger of being touched unlawfully];

“2. The defendant reasonably believed that the immediate use of force was necessary to defend against that danger;

“AND

“3. The defendant used no more force than was reasonably necessary to defend against that danger.”

“Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be. The defendant must have believed there was (imminent danger of bodily injury to (himself/herself/[or] someone else)/[or] an imminent danger that (he/she/[or] someone else) would be touched unlawfully). Defendant’s belief must have been reasonable and (he/she) must have acted because of that belief. The defendant is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation. If the defendant used more force than was reasonable, the defendant did not act in lawful (self-defense/[or] defense of another).

“When deciding whether the defendant’s beliefs were reasonable, consider all the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the defendant’s beliefs were reasonable, the danger does not need to have actually existed.

“.....

“The People have the burden of proving beyond a reasonable doubt that the defendant did not act in lawful (self-defense/[or] defense of another). If the People have not met this burden, you must find the defendant not guilty of _____<insert crime(s) charged>.”

III. Analysis

The juvenile court rejected appellant's testimony that he was acting in self-defense on the ground that his testimony was not credible. The appellate court will, of course, defer to the juvenile court's credibility determinations because the juvenile court, as the trier of fact, "is in a superior position to observe the demeanor of witnesses." (*In re George T.* (2004) 33 Cal.4th 620, 634.) As the trier of fact in a wardship proceeding, the juvenile court may find a witness credible in some respects and not in others.

The record contains substantial evidence to support the true finding on the assault allegation. First, Christopher's face was injured and bleeding, which corroborated his extrajudicial statement that appellant had hit him on the face with a tool. Second, appellant admitted that a construction tool was present in the room where the altercation occurred. Third, a tool, which the officer described as a trowel, was recovered at the scene. Fourth, appellant admitted that he ran from his home immediately after overhearing Christopher tell the police that appellant had hit him on the face with a construction tool. And finally, appellant was found wearing a bloodied t-shirt.

A trier of fact is permitted to infer that a defendant's flight immediately after the commission of a crime indicates a consciousness of guilt. (*People v. Mendoza* (2000) 24 Cal.4th 130, 180.) Although appellant's counsel presented a plausible explanation for appellant's flight, it was within the juvenile court's exclusive province to reject that explanation as inherently incredible in light of the evidence as a whole.

The evidence reasonably supports the juvenile court's determination that appellant's version of the incident—that he barely tapped Christopher with his bare fist in order to defend himself—was not true. Accordingly, we conclude the juvenile court's finding that appellant "was an aggressor" in committing an assault on Christopher was supported by substantial evidence.

DISPOSITION

The order of wardship is affirmed.

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SUZUKAWA, J.

We concur:

WILLHITE, Acting P. J.

MANELLA, J.