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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

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

2d Juv. No. B285941
(Super. Ct. No. MJ23942)
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

D.B.,

Defendant and Appellant.

D.B. appeals from the judgment entered after the juvenile court sustained a juvenile wardship petition (Welf. & Inst. Code, § 602) for second degree robbery (Pen. Code, § 211)¹ and assault with force likely to cause great bodily injury (§ 245, subd. (a)(4)). The trial court declared the offenses felonies, placed

¹ All further statutory references are to the Penal Code.

appellant at home on probation, and ordered appellant to pay a restitution fine. Appellant contends the evidence does not support the finding that he aided and abetted the robbery. We affirm.

Facts

On January 26, 2016, appellant and eight boys ran up behind Luis V. as he walked home from school. One of the boys punched Luis in the back of the head, causing him to fall. The group punched, kicked, and stomped Luis. All the boys except appellant covered their faces with bandanas or hoodies.

During the beating, one of the boys tried to steal Luis's backpack. Luis held onto the backpack but broke the strap and lost his cell phone. One of the boys picked up the phone and ran off with it, along with the others. Luis yelled for his phone back. One of the boys said "we ditched your phone back there in the bushes." Luis did not find it and chased the group. Appellant stopped and yelled, "I got your back. Keep going." Appellant looked Luis in the eye and said "you better slow down before I knock you again."

Karizma Davis and her husband witnessed the attack. They pulled over and honked the car horn until the boys scattered. Davis offered to give Luis a ride home. Luis was so disoriented that it took a while for him to realize where he was and give Davis directions to his house.

After the robbery, Luis recognized appellant in a photo posted on Facebook. Luis identified appellant in a six-pack photo lineup and at trial. Davis identified appellant in a photo lineup and said he was "part of the group kicking [Luis]." Appellant had a hoodie "but the hood wasn't up."

Substantial Evidence

Appellant argues that the evidence does not support the finding that he aided and abetted the robbery because there is no evidence that he knew of the phone theft or intended to aid the theft. 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 jury could reasonably deduce from the evidence in support of the judgment. (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) “A reversal for insufficient evidence ‘is unwarranted unless it appears “that upon no hypothesis whatever is there sufficient substantial evidence to support” the jury’s verdict. [Citation.]” (*People v. Zamudio* (2008) 43 Cal.4th 327, 357.) The same standard of review applies to juvenile adjudications. (*In re Jesse L.* (1990) 221 Cal.App.3d 161, 165.)

Robbery is the taking of personal property in the possession of another from his person or immediate presence, against his will, accomplished by means of force or fear. (§ 211; *People v. Bonner* (2000) 80 Cal.App.4th 759, 763.) A defendant who does not use force or fear in the initial taking of the property may nonetheless be guilty of robbery if he uses force or fear to retain the property or carry it away in the victim’s presence. (*People v. Gomez* (2008) 43 Cal.4th 249, 265; *People v. Estes* (1983) 147 Cal.App.3d 23, 27-28.) “The use of force or fear to escape or otherwise retain even temporary possession of the property constitutes robbery. [Citations.]” (*People v. Flynn* (2000) 77 Cal.App.4th 766, 772.) “‘Gaining possession or . . . carrying away’ includes forcing or frightening a victim into leaving the scene, as well as simply deterring a victim from preventing the

theft or attempting to immediately reclaim the property.
[Citations.]” (*Id.* at p. 771.)

For purposes of determining aider and abettor liability, the commission of a robbery continues until all acts constituting the offense have ceased. (*People v. Cooper* (1991) 53 Cal.3d 1158, 1164.) Aider and abettor liability may attach during the time that the stolen property is being carried away to a place of temporary safety. (*Id.* at p. 1161; *People v. Hinton* (2006) 37 Cal.4th 839, 885.) “[A]n intent to help the perpetrator get away, formed before cessation of the acts constituting the felony, constitutes aiding and abetting. [Citation.]” (*In re Malcolm M.* (2007) 147 Cal.App.4th 157, 171, citing *People v. Cooper, supra*, 53 Cal.3d at pp. 1164-1165.)

Here the evidence shows that appellant acted in concert with his cohorts to assault and rob the victim. The group ran up to Luis, knocked him down, beat and kicked him, and grabbed his cell phone. Although there is no specific evidence that appellant took Luis’s cell phone, appellant knew of the theft when Luis yelled out for his phone and gave chase. Appellant shouted out to his cohorts that he had their backs covered and threatened to knock Luis down to ensure the group’s getaway. Appellant’s presence at the robbery, his flight with the group, and the threat to knock Luis down if he thwarted the group’s escape was strong circumstantial evidence. (*People v. Nguyen* (2015) 61 Cal.4th 1015, 1054.)

Appellant argues that the theft was unplanned and spontaneous, but the evidence shows appellant helped ensure the successful completion of the robbery. A trier of fact may infer knowledge where the defendant continues to participate in the robbery after the property is taken. (See *Rosemond v. United*

States (2014) __ U.S. __, __, fn. 9 [134 S.Ct. 1240, 1250, fn 9; *United States v. Goldtooth* (9th Cir. 2014) 754 F.3d 763, 769.) It is not our function to reweigh the evidence or resolve evidentiary conflicts. (*People v. Young* (2005) 34 Cal.4th 1149, 1181.) The prosecution presented substantial evidence from which a rational trier of fact could have found beyond a reasonable doubt that appellant aided and abetted the robbery.

The judgment is affirmed.

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YEGAN, Acting P. J.

We concur:

PERREN, J.

TANGEMAN, J.

Michael L. Miller, Commissioner

Superior Court County of Los Angeles

Lynette Gladd Moore, 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, Senior
Assistant Attorney General, Scott A. Taryle, Supervising Deputy
Attorney General, David W. Williams, Deputy Attorney General,
for Plaintiff and Respondent.