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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

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

THE PEOPLE,

Plaintiff and Respondent,

v.

J.Y.,

Defendant and Appellant.

B272315

(Los Angeles County
Super. Ct. No. JJ18980)

APPEAL from an order of the Superior Court of Los Angeles County, J. Christopher Smith, Juvenile Court Referee. Affirmed.

Tonja R. Torres, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, and Paul M. Roadarmel, Jr. and Stephanie A. Miyoshi, Deputy Attorneys General, for Plaintiff and Respondent.

J.Y. appeals from the juvenile court's order of wardship based on a sustained Welfare and Institutions Code¹ section 602 petition that alleged one count of assault by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4)). On appeal, J.Y. contends the evidence was insufficient to support the juvenile court's finding. We affirm.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

I. Section 602 Petition

On April 1, 2016, the Los Angeles County District Attorney filed a petition pursuant to section 602 alleging that then 17-year-old J.Y. had committed an assault by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4)) against his father, Jim Y. J.Y. previously had been declared a ward of the juvenile court based on prior sustained petitions, and had been released from a community camp program three weeks earlier. J.Y. denied the allegations in the current petition, and the matter was set for an adjudication hearing.

II. Adjudication Hearing

A contested adjudication hearing was held on April 21, 2016. The People called two witnesses to testify: (1) J.Y.'s father, Jim; and (2) the officer who interviewed Jim at the scene shortly after the alleged assault. J.Y. did not call any witnesses.

Jim testified that, on the evening of March 29, 2016, he was in the family room of his home with his son, J.Y. Jim was sitting

¹ Unless otherwise stated, all further statutory references are to the Welfare and Institutions Code.

on an air mattress while J.Y. stood behind him and off to the side. J.Y. repeatedly asked Jim if he could go to Arizona, and Jim refused to give his permission. The conversation about the trip caused both Jim and J.Y. to become “agitated.” At one point, J.Y. threw a football, which struck Jim in the back of his head. Jim did not feel any pain from being hit by the football, but he was agitated. Jim stood up and said something to J.Y. that might have “provoked him a little bit.” In response, J.Y. asked Jim to come outside; Jim refused.

Jim then began walking toward the hallway area of the home. Without warning, J.Y. hit Jim on the left side of his face near his eye. The blow caused Jim to stumble backward, but he did not fall to the ground. After J.Y. hit Jim, J.Y.’s mother and sister came into the room and intervened. Jim went outside to his car and called 911 because he did not want the situation to escalate any further. Jim testified that he had a sinus infection at the time of the incident and his nose had been bleeding for several days. When J.Y. hit Jim in the face, it caused the blood that was clogging his nose to flow. Jim denied, however, that he was injured as a result of being hit by J.Y.

Los Angeles Sheriff’s Deputy Armando Lopez testified that he responded to the scene shortly after the incident occurred. Deputy Lopez first met with Jim, who had been waiting in his vehicle near the family’s home. When Jim exited his vehicle, the deputy observed that he had some blood on his face and appeared to be bleeding from his nose. Jim also had a slight redness on his left cheek. After speaking briefly with Jim about the assault, Deputy Lopez approached J.Y., who was sitting on the front porch of the family’s home. J.Y. refused to answer most of the deputy’s questions.

Deputy Lopez then conducted a more detailed interview with Jim. Jim recounted that, during an argument about a trip to Arizona, J.Y. had picked up a football and forcefully threw it at the back of Jim's head. The impact from the football caused Jim to briefly feel dizzy and confused. As Jim and J.Y. continued to argue, J.Y. then punched Jim in the face. The blow to his face caused Jim to stumble into the wall, which prevented him from falling to the ground. As a result of being punched, Jim became dizzy, and his nose began to bleed. Jim did not indicate to the deputy that his nosebleed was associated with a sinus infection. Following the interview, Deputy Lopez took a photograph of Jim's injuries, which appeared to show blood under his nose, but not any redness on his cheek. Jim did not request any medical assistance at the scene.

At the conclusion of the adjudication hearing, the juvenile court sustained the section 602 petition based a finding that J.Y. had committed an assault against Jim by means of force likely to produce great bodily injury. The court also deemed the charge to be a felony offense.

III. Disposition Hearing

At the April 28, 2016 disposition hearing, the juvenile court declared J.Y. a continuing ward of the court pursuant to section 602. The court ordered that J.Y. be placed in a camp community placement program for a term of seven to nine months, and set the aggregate maximum period of confinement at 10 years and eight months.

DISCUSSION

On appeal, J.Y. challenges the sufficiency of the evidence supporting the juvenile court’s jurisdictional finding on the section 602 petition. J.Y. specifically contends that the evidence was insufficient to support the finding that the assault against Jim was committed with force likely to cause great bodily injury.

I. Standard of Review

“A juvenile court makes a jurisdictional finding under . . . section 602 based on the beyond a reasonable doubt standard.” (*In re Gary H.* (2016) 244 Cal.App.4th 1463, 1477.) An appellate court reviews a minor’s challenge to the sufficiency of the evidence supporting a jurisdictional finding under “the same standard applicable to adult criminal cases. [Citation.] ‘In reviewing the sufficiency of the evidence, we must determine “whether, after viewing 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.” [Citation.]’ [Citation.] “[O]ur role on appeal is a limited one.” [Citation.] Under the substantial evidence rule, we must presume in support of the judgment the existence of every fact that the trier of fact could reasonably have deduced from the evidence. [Citation.] Thus, if the circumstances reasonably justify the trier of fact’s findings, the opinion of the reviewing court that the circumstances might also reasonably be reconciled with a contrary finding does not warrant reversal of the judgment. [Citation.]’ [Citation.]” (*In re V.V.* (2011) 51 Cal.4th 1020, 1026.)

II. Substantial Evidence Supports the Finding that J.Y. Used Force Likely to Produce Great Bodily Injury

Penal Code section 245 prohibits an assault “by any means of force likely to produce great bodily injury.” (Pen. Code, § 245, subd. (a)(4).) “Great bodily injury” means “bodily injury which is significant or substantial, not insignificant, trivial or moderate.” (*People v. McDaniel* (2008) 159 Cal.App.4th 736, 748.) “Because the statute speaks to the capability of inflicting significant injury, neither physical contact nor actual injury is required” to establish the elements of the offense. (*People v. Brown* (2012) 210 Cal.App.4th 1, 7; see *People v. Aguilar* (1997) 16 Cal.4th 1023, 1028 [because section 245 “focuses on . . . force *likely* to produce great bodily injury, whether the victim in fact suffers any harm is immaterial”].) ““The issue, therefore, is not whether serious injury was caused, but whether the force used was such as would be likely to cause it.” [Citation.]” (*People v. McDaniel, supra*, at p. 748.) If, however, injury is inflicted, the location and extent of such injury may be considered in connection with other evidence to determine whether the assault was of the sort likely to cause great bodily injury. (*People v. Brown, supra*, at p. 7; *People v. Beasley* (2003) 105 Cal.App.4th 1078, 1086.)

It is well-established that “the use of hands or fists alone may support a conviction of assault ‘by means of force likely to produce great bodily injury.’” (*People v. Aguilar, supra*, 16 Cal.4th at p. 1028; see also *People v. Wingo* (1975) 14 Cal.3d 169, 176.) Indeed, a single blow to the face may, under all of the circumstances, constitute the use of such force within the meaning of the statute. (*In re Nirran W.* (1989) 207 Cal.App.3d 1157, 1162 [single punch to the side of the face delivered “without warning and . . . with great force” was sufficient to support a

finding of assault by means of force likely to produce great bodily injury]; *People v. White* (1961) 195 Cal.App.2d 389, 392 [single blow to the eye supported charge of assault by means of force likely to produce great bodily injury where “the assault was unprovoked and delivered at a time [the victim] not prepared to protect himself”].) “Whether a fist used in striking a person would be likely to cause great bodily injury is to be determined by the force of the impact, the manner in which it was used and the circumstances under which the force was applied. [Citation.]” (*People v. McDaniel, supra*, 159 Cal.App.4th at pp. 748-749.)

Viewing the evidence in the light most favorable to the juvenile court’s order, we conclude that there was substantial evidence to support the finding that J.Y.’s assault against Jim was committed by means of force likely to produce great bodily injury. The evidence at the adjudication hearing showed that J.Y. first threw a football forcefully at Jim, which struck him in the back of his head. Jim was sitting in front of J.Y. at the time and did not see the football until it hit him. The blow to his head caused Jim to briefly feel dizzy and confused. Without warning, J.Y. then punched Jim in the face near his left eye. Jim admitted that he did not see the punch coming because “it happened so quickly.” The force of the punch caused Jim to stumble backward against a wall. The blow to his face also made Jim dizzy and caused his nose to bleed.

It is true, as J.Y. asserts, that Jim did not seek medical attention for his injuries or suffer any long-term effects from the blows. However, the critical determination is not whether Jim actually suffered great bodily injury, but whether the nature of the force inflicted by J.Y. and the circumstances under which he applied such force was likely to cause great bodily injury.

Although Jim minimized the nature of the assault and extent of his injuries at the adjudication hearing, conflicts in testimony are resolved by the trier of fact. (*People v. Young* (2005) 34 Cal.4th 1149, 1181 [“[r]esolution of conflicts and inconsistencies in the testimony is the exclusive province of the trier of fact”].) Moreover, the trier of fact may be “rightfully suspicious of . . . testimony which deviates 180 degrees from what the witness told the police.” (*People v. Jackson* (2005) 129 Cal.App.4th 129, 167.) Based on the totality of the evidence presented, including Jim’s prior statement to the police, the juvenile court reasonably could conclude that J.Y. committed an assault by means of force likely to produce great bodily injury. The jurisdictional finding was supported by substantial evidence.

DISPOSITION

The juvenile court’s order is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.