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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

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

THE PEOPLE,

Plaintiff and Respondent,

v.

L.H.,

Defendant and Appellant.

B286947

(Los Angeles County
Super. Ct. No. YJ39288)

APPEAL from a judgment of the Superior Court of Los Angeles County,
J. Christopher Smith, Judge. Affirmed.

Lynnette 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, Assistant Attorney General, Susan
Sullivan Pithey and Esther P. Kim, Deputy Attorneys General, for Plaintiff
and Respondent.

INTRODUCTION

The juvenile court sustained a petition against minor L. H. (appellant) for attempted robbery. On appeal, appellant argues that the prosecution presented insufficient evidence to establish: (1) that there was an attempted robbery, and (2) that appellant aided and abetted the attempted robbery. We affirm the juvenile court's judgment.

FACTUAL AND PROCEDURAL BACKGROUND

On July 24, 2017, Edwin Perez Fabian (Perez) returned home from work and parked his car on a street in Los Angeles, between 1:30 and 2:00 a.m. As he was getting ready to leave, Perez saw a gold van parked behind him. He observed appellant inside the van in the driver's seat, and an older passenger next to him. The passenger (later identified as "Kamari," a nonminor) approached appellant's car and stood outside his door. Kamari seemed to be complaining about the parking spot, so Perez moved his car to the other side of the street. Perez saw Kamari standing outside his door again. Perez, who spoke limited English, understood that Kamari was demanding something and saying "wallet." Kamari started to hit the window, and forcefully demanded Perez's wallet while moving his hand back as if to indicate he was armed. Perez felt threatened, but never saw a weapon.

Kamari tried to open Perez's door, and Perez turned on his ignition to leave. The gold van, with appellant still in the driver's seat, was now parked behind him. As Perez started to drive away, Kamari got into the passenger seat of the van, and the van moved forward, blocking Perez. The van then hit Perez's car repeatedly on the driver's side. Perez drove to the other end of the street, and the van followed and parked behind him. Perez grabbed his phone and called 911. As a patrol car approached, appellant drove away and Perez took a photo of the van's license plate.

Police officer James Douglas was on duty during the time of the incident. Around 3:05 a.m., he observed the gold van at a stop sign near the incident, with fresh collision damage on the right side. A check of its license plate revealed an alert that the occupants were "armed and dangerous." Douglas activated his lights and sirens, but the van did not stop. Douglas

pursued the van for approximately 30 minutes, before it pulled over. Douglas observed that appellant was now in the passenger seat, and Kamari was in the driver's seat.

The incident happened between 2:00 a.m. and 3:00 a.m., and Perez called 911 at 3:03 a.m. Perez met with the police soon after the incident, and the next day he identified Kamari in a photographic show-up as the person who approached his window. In the arrest report, both appellant and Kamari were reported to be wearing red shirts. During a hearing for Kamari, Perez testified that Kamari was "wearing blue."

On July 25, 2017, the District Attorney of Los Angeles County filed a juvenile petition against appellant pursuant to Welfare and Institutions Code section 602. The petition alleged that appellant committed one count of attempted second degree robbery (Pen. Code, §§ 644/211.)¹ Appellant denied the allegation.

At the adjudication hearing on December 6, 2017, appellant presented no evidence. The prosecution argued that the van was used as a "very deadly weapon" to "help Kamari in the commission of this [attempted] robbery." The defense argued that there were inconsistencies in Perez's testimony, that the timeline was questionable, and that the evidence was insufficient to prove appellant had the specific intent to commit, or aid and abet in, attempted robbery. The court found Perez to be a "very credible witness" and his testimony "pretty consistent." It noted other supporting evidence, such as the damage to the van, the photo Perez took of the van's license plate, the officer's testimony, and the photographic show-up to rule that the prosecution had proven its case beyond a reasonable doubt.

The juvenile court sustained the petition, declared appellant a ward of the court pursuant to Welfare and Institutions Code section 602, and placed appellant home on probation. Appellant timely appealed.

DISCUSSION

Appellant contends there was insufficient evidence to prove he committed the attempted robbery, or that he had the specific intent to aid

¹ All further statutory references are to the Penal Code, unless otherwise noted.

and abet it. Viewing the evidence in the light most favorable to the juvenile court's finding, substantial evidence supports the conclusion that appellant committed attempted robbery.

A. *Standard of Review*

We affirm a judgment supported by substantial evidence. (*People v. Johnson* (1980) 26 Cal.3d 557, 576 (*Johnson*)). Substantial evidence is evidence that is ““reasonable in nature, credible and of solid value.”” (*People v. Samuel* (1981) 29 Cal.3d 489, 505.) “[T]he relevant question is 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.” (*Jackson v. Virginia* (1979) 443 U.S. 307, 319, italics omitted.) “We must presume in support of the judgment the existence of every fact that the trier of fact could reasonably deduce from the evidence.” (*People v. Medina* (2009) 46 Cal.4th 913, 919.) If the evidence permits a reasonable trier of fact to conclude the charged crime was committed, the opinion of a reviewing court that the circumstances may also be reconciled with a contrary finding does not warrant reversal. (See *People v. Valdez* (2004) 32 Cal.4th 73, 104.) The testimony of a single witness is sufficient to support a conviction. (*People v. Young* (2005) 34 Cal.4th 1149, 1181.)

In reviewing appellant's challenge to the sufficiency of the evidence, “we do not determine the facts ourselves.” (*People v. Guerra* (2006) 37 Cal.4th 1067, 1129, disapproved on other grounds in *People v. Rundle* (2008) 43 Cal.4th 76, 151.) We do not “reweigh the evidence, resolve conflicts in the evidence, or reevaluate the credibility of witnesses.” (See *People v. Cochran* (2002) 103 Cal.App.4th 8, 13, disapproved on other grounds in *People v. Soto* (2011) 51 Cal.4th 229, 248.) “The test on appeal is whether substantial evidence supports the conclusion of the trier of fact, not whether the evidence proves guilt beyond a reasonable doubt. [Citation.]” (*Johnson, supra*, 26 Cal.3d at p. 576.)

B. *Substantial Evidence Supports the Attempted Robbery Conviction.*

Appellant contends there was insufficient evidence to support the juvenile court's finding of an attempted robbery, or that appellant aided and

abetted the attempted robbery. Specifically, appellant argues that there was insufficient evidence to establish an intent to deprive Perez of his property, beyond a speculative reference to Perez's "wallet," which suggests the incident was mere road rage. Further, appellant argues there was insufficient evidence to establish that he facilitated the attempted robbery by participating in the confrontation between Kamari and Perez, beyond being a passive onlooker, or that he even knew of Kamari's intent to rob Perez. We find the evidence sufficient to support the juvenile court's finding.

Robbery is the "felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear." (§ 211.) "Fear" for purposes of a robbery "may be . . . [¶] . . . [t]he fear of an unlawful injury to the person or property of the person robbed" (§ 212.) To establish attempted robbery, the prosecution must prove specific intent to commit robbery and a "direct but ineffectual act" toward its commission going beyond mere preparation that would have resulted in the crime of robbery if completed. (*People v. Sanchez* (2016) 63 Cal.4th 411, 470.)

"A person aids and abets the commission of a crime when he or she, (i) with knowledge of the unlawful purpose of the perpetrator, (ii) and with the intent or purpose of committing, facilitating or encouraging commission of the crime, (iii) by act or advice, aids, promotes, encourages or instigates the commission of the crime." (*People v. Cooper* (1991) 53 Cal.3d 1158, 1164.) The aider and abettor "renders some independent contribution to the commission of the crime or otherwise makes it more probable that the crime will be successfully completed" than without his participation. (*People v. Brady* (1987) 190 Cal.App.3d 124, 132, disapproved on other grounds in *People v. Montoya* (1994) 7 Cal.4th 1027, 1040-1041.) Intent may be proven circumstantially, by inference, from "volitional acts with knowledge of their probable consequences." (*People v. Beeman* (1984) 35 Cal.3d 547, 559-560.)

There was substantial evidence from which a reasonable trier of fact could conclude that appellant and Kamari intended to deprive Perez of his property by force or fear. The prosecution presented reasonable, logical evidence, which the juvenile court found credible, that Kamari specifically demanded the victim's wallet, and forcefully threatened him to obtain it.

Although Perez spoke only limited English, he consistently testified that he understood the word “wallet,” and understood that Kamari was demanding his wallet when he repeatedly hit Perez’s window and gestured as if to indicate he was armed. When Perez tried to escape, Kamari tried to enter his vehicle, and appellant moved the van to block Perez from leaving. Appellant hit Perez’s vehicle several times, leaving collision marks in both Perez’s and appellant’s vehicles. Perez felt threatened by the confrontation. On this record, the juvenile court reasonably inferred that appellant and Kamari had the requisite intent to commit a robbery, and that their direct, unequivocal actions went beyond “mere preparation” and would have resulted in a robbery if completed. (See *People v. Vizcarra* (1980) 110 Cal.App.3d 858, 861.) In short, the evidence was sufficient to support the juvenile court’s finding of an attempted robbery.

The evidence also was sufficient to support the court’s determination that appellant aided and abetted the attempted robbery when he physically blocked Perez’s pathway and intimidated him, sharing Kamari’s intent and helping to facilitate the crime. We consider several factors in determining aiding and abetting, such as “presence at the crime scene, companionship, and conduct before and after the offense.” (*In re Juan G.* (2003) 112 Cal.App.4th 1, 5 [evidence that defendant was present at robbery, that victim felt threatened by him, and that defendant was with perpetrator immediately before robbery and during attempted escape was sufficient to support finding that he aided and abetted robbery].) Here, appellant did not unwittingly happen to be at the scene of the crime, nor was he a passive and innocent bystander. Perez’s testimony established that Kamari and appellant were together before the confrontation and specifically targeted Perez when they pulled up behind his car. There was no evidence to suggest that appellant was surprised by Kamari’s conduct or afraid to interfere with it, belying any argument that appellant did not know of Kamari’s unlawful intent to rob Perez, or the probable consequences of his actions. The evidence further indicated that appellant worked in concert with Kamari and actively participated in the crime by following Perez with the van, tracking Kamari’s movements, allowing Kamari back in the van when he could not enter Perez’s car, blocking Perez’s escape, crashing into Perez’s car, and ultimately riding

with Kamari as they evaded the police officers who pursued them. On this record, the juvenile court reasonably inferred that appellant knew of and shared Kamari's criminal intent, and took an active, affirmative role in facilitating the attempted robbery.

Appellant's reliance on *United States v. Goldtooth* (9th Cir. 2014) 754 F.3d 763 (*Goldtooth*) is misplaced. There, the Ninth Circuit reversed the convictions of the two men for aiding and abetting an attempted robbery of two victims of tobacco and a wallet. The appellants, along with a third man, surrounded the victims and asked whether they had anything in their pockets, but "never asked whether they had money or a wallet." (*Id.* at p. 766.) They patted down the victims in a cursory manner, made no verbal threats, and did not physically harm anyone. After indicating they would "get going," the third man suddenly "snatched" tobacco from one victim's lap before the three men promptly left. (*Ibid.*) The court concluded that none of this evidenced foreknowledge by the two appellants that the tobacco would be snatched: there was no evidence they had planned the taking, no evidence they had aided or encouraged it, and no evidence they were aware of the third man's intentions. (*Id.* at p. 769.) The court found the act was nothing but "an act of spontaneity" that "could not have been known in advance or intended by another." (*Ibid.*) Also, unlike the instant case, "a rational juror could not have concluded beyond a reasonable doubt that [the men] had intended to rob [the victim] of a wallet they never asked for, [and] never looked for" (*Id.* at p. 771.) In contrast, appellant cannot reasonably argue that Kamari's actions were "an act of spontaneity," of which he had no advance knowledge, and in which he did not participate. Furthermore, as *Goldtooth* makes clear, Kamari's repeated demands for Perez's wallet in plain sight of appellant strongly suggests that Kamari and appellant shared the intent to rob Perez. In short, the evidence amply supported the juvenile court's decision sustaining the petition.

DISPOSITION

The judgment of the juvenile court is affirmed.

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MANELLA, P. J.

We concur:

WILLHITE, J.

MICON, J.*

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