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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

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

B237189

(Los Angeles County
Super. Ct. No. FJ49488)

THE PEOPLE,

Plaintiff and Respondent,

v.

J. L.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County,
Robin Miller Sloan, Judge. Affirmed.

Torres & Torres and Steven A. Torres, 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, Senior Assistant Attorney General, Linda C. Johnson and
Robert M. Snider, Deputy Attorneys General, for Plaintiff and Respondent.

This appeal arises from a juvenile wardship proceeding. The trial court convicted defendant J.L. of providing false information to a police officer and extortion, and it also found true a gang enhancement with respect to the extortion charge. Defendant was ordered to return to his residence in Colorado, where he was already on probation, and the trial court recommended a six month dispositional program in a locked facility. On appeal, defendant contends that there was insufficient evidence to support the gang enhancement. We disagree and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. Underlying Facts

On September 23, 2011, defendant approached Saul Ramirez, a street vendor, and his family, on a street in East Los Angeles. Defendant told Ramirez that the boss of the Mara Salvatrucha gang (MS) demanded fifteen dollars for rent because Ramirez was selling goods in MS territory. Ramirez asked defendant, “Why am I going to give you \$15? . . . I have been living here for years, and no one has asked me for money.” Defendant responded that MS was very upset with Ramirez and that he would have to pay the rent. Ramirez then asked whether other vendors would have to pay rent as well, and defendant responded that his “other friends” were going to collect from the other vendors.

Fearing for both his and his family’s safety, Ramirez informed defendant that he only had five dollars and that he would give defendant the rest later. Defendant took the five dollars and left. Neither defendant nor MS thereafter demanded further payment. Ramirez reported the incident three days later and defendant was arrested the following

day. The arresting officer, Luis Interiano, performed a field interview to obtain defendant's basic information, but defendant provided a false name.¹

2. *The Charges*

Pursuant to Welfare and Institutions Code section 602, a petition was filed to declare defendant a ward of the state. The petition alleged that defendant committed the crimes of extortion (Pen. Code, § 520) and giving false information to a police officer (Pen. Code, § 148.9, subd. (a)). It was further alleged that defendant committed the crime of extortion to benefit a criminal street gang (Pen. Code, § 186.22, subd. (b)(4)(C)).

3. *The Trial*

At trial, the prosecution introduced testimony from Saul Ramirez, Officer Luis Interiano, and gang expert Officer Kenny Talbert. Officer Talbert testified to his opinion that defendant committed the extortion to benefit MS. His reasoning was that: (1) extortion was one of MS's primary criminal activities; (2) the extortion was done at the direction of a MS boss; (3) a reasonable person would not claim membership in a gang to which he did not belong; and (4) the extortion benefitted the gang because the money extorted could be used to further other gang criminal activities and the crime instills fear in the community by making victims less likely to testify out of fear of retaliation by the gang.

¹ Defendant provided his true name after Officer Interiano said that he would find out if defendant was lying.

Defendant offered no witnesses in his defense, but elicited testimony on cross-examination. Defendant's theory of the case was that he was not a gang member, and had simply lied about being in the gang in order to scare Ramirez into giving him the money. Defendant elicited Officer Talbert's testimony that there was no field identification card identifying defendant as a gang member, and that he had no MS tattoos or a gang nickname. Indeed, Officer Talbert testified that he could not say with one hundred percent certainty that defendant was a gang member. Officer Talbert also testified that people have lied about being in a gang. However, the prosecution elicited testimony from Officer Talbert that no reasonable person would lie about being in a gang because of "serious repercussions."

4. *Conviction and Sentencing*

The trial court found defendant guilty of extortion, a felony, and giving false information to a police officer, a misdemeanor. It also found the gang enhancement true with respect to the extortion. The trial court imposed various terms and conditions of probation and ordered defendant to return to his residence in Summit County, Colorado, where he was already on probation. The trial court recommended that defendant be placed in a six month dispositional program in a locked facility, with a predisposition credit of forty-two days, and a maximum term of commitment of life. Defendant filed a timely notice of appeal.

ISSUES ON APPEAL

Defendant contends that there was insufficient evidence to sustain the gang enhancement.

DISCUSSION

1. Standard of Review

In a sufficiency of the evidence challenge, the appellate court “ ‘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.” ’ ” (*In re V.V.* (2011) 51 Cal.4th 1020, 1026, original italics.) Every fact that could have been reasonably deduced from the evidence in favor of the judgment must be presumed to support the judgment. (*Ibid.*)

2. There was Sufficient Evidence to Sustain the Gang Enhancement

A gang enhancement is warranted if a defendant committed an enumerated felony² “for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members.” (Pen. Code, § 186.22, subd. (b)(1).) The enhancement does not require the defendant to be an active or current member of the gang that benefits from the crime. (*People v. Bragg* (2008) 161 Cal.App.4th 1385, 1402.)

We conclude that there was sufficient evidence to support the trial court’s finding. Defendant told Ramirez that he was collecting rent at the direction of a MS

² Extortion is one of the enumerated felonies. (Pen. Code, § 186.22, subd. (b)(4)(C))

boss. The extortion instills fear in the community, which makes victims less likely to come forward and turn in the perpetrator.³ While defendant speculates that he lied about being in MS and that he was acting to benefit only himself, he does not point to any evidence conclusively establishing this point. Defendant simply argues that the evidence at trial can be viewed to support the conclusion that he was not in the gang. Defendant made this argument before the trier of fact, which rejected it on the evidence. We will uphold this determination if it is supported by substantial evidence. We conclude that defendant's statement to Ramirez, that he was collecting rent for a MS boss, is sufficient to support the gang enhancement.

³ In fact, Ramirez waited three days before he finally came forward.

DISPOSITION

The judgment is affirmed.

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CROSKEY, Acting P. J.

WE CONCUR:

KITCHING J.

ALDRICH, J.