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

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

2d Juv. No. B284221
(Super. Ct. No. FJ54978)
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

R.R.,

Defendant and Appellant.

R.R. appeals the juvenile court's order sustaining a wardship petition after the court found true the allegation that appellant had committed the offense of possession of a firearm by a minor (Pen. Code, § 29610; Welf. & Inst. Code, § 602). The court declared appellant a ward, placed him in the Camp Community Placement Program for a term of five to seven

months, and further declared that appellant could be held in physical confinement for up to three years.¹

Appellant challenges the denial of his motion to suppress the firearm found in his possession. He contends that his detention for jaywalking (Veh. Code, § 21955)² and his ensuing patdown search were both invalid under the Fourth Amendment. We agree that the prosecution failed to meet its burden of establishing the lawfulness of appellant's initial detention and accordingly reverse.

FACTS AND PROCEDURAL HISTORY

In June 2017, a wardship petition was filed against appellant alleging possession of a firearm by a minor. Appellant subsequently moved to suppress the firearm pursuant to Welfare and Institutions Code section 700.1. Los Angeles Police Officer Eric Ramirez testified at the suppression hearing. He was assigned to the Hollenbeck Division's gang unit and had been a peace officer for approximately nine years. On the evening of June 21, 2017, Officer Ramirez and his partner were patrolling the area around Hollenbeck Park. Officer Ramirez testified that the park is "known for a lot of gang activity, and we [have] found several weapons in there."

Hollenbeck Park is bounded on the north by 4th Street and on the east by South St. Louis Street. At about 6:45 p.m. that night, Officer Ramirez was on patrol near the intersection of 4th and St. Louis Streets with his partner when he "noticed

¹ The court initially found true a gang enhancement allegation (Pen. Code, § 186.22, subd. (b)(1)(A)), but later struck the finding after granting appellant's motion for reconsideration.

² All further undesignated statutory references are to this section of the Vehicle Code.

[appellant] and another individual jaywalking[,]" which the officer described as "crossing the street between controlled intersections without using a crosswalk." When the prosecutor asked Officer Ramirez to be more specific, the officer added that appellant and his companion had crossed from the east side of St. Louis Street to the west side of the street "without using a crosswalk."³

Officer Ramirez and his partner activated their lights and proceeded to effect a stop of appellant and his companion. After appellant and his companion saw the officers, they "split up" and walked away in different directions. Appellant and his companion were both detained. Based on the location of the stop, appellant's prior association with a known gang member, and his evasive behavior at the time of the stop, Officer Ramirez decided to conduct a patdown search for weapons. During the search, the officer retrieved a loaded firearm from one of appellant's pockets. After appellant was arrested, the officer noticed that appellant was also wearing Nike shoes with "Z-4" written on the "swoosh" logo. Officer Ramirez asked appellant what Z-4 meant, and appellant replied "that it was his moniker or what he went by."

On cross-examination, appellant's attorney presented Officer Ramirez with a map of the location where he had observed appellant crossing St. Louis Street. At counsel's prompting, Officer Ramirez wrote an "x" on the map to indicate where he had seen appellant cross the street. The officer placed the mark on the east side of St. Louis Street just south of 4th

³ Officer Ramirez also recognized appellant from a prior encounter. Approximately two months earlier, the officer had detained appellant and a known gang member at another park for suspected marijuana use.

Street, and north of an alley that intersects with St. Louis Street. When asked which intersections appellant had crossed between such that he was jaywalking, Officer Ramirez replied, “[t]he one on 4th Street and the one on 6th Street.” Although 6th Street is not depicted on the map, it is undisputed that the street is well south of the alley that intersects with St. Louis Street near 4th Street. The marked map was subsequently admitted into evidence as an exhibit.

In arguing the suppression motion, defense counsel asserted among other things that “[a] pat down search requires . . . that the detention be legal. And in this case, [appellant] was allegedly stopped for jaywalking, which is defined in . . . section 21955 as ‘crossing between controlled intersections . . . controlled by . . . traffic control signals.’ There is a case holding that crossing in between a traffic controlled intersection and an alleyway is not a violation of the jaywalking code, and I have a copy of the case.” The prosecutor responded: “I believe the code is reasonable suspicion that crime is afoot. And I think that’s the state of the law. I think he had every right to stop him. He committed a crime in his opinion. He was jaywalking.”

In concluding that appellant’s detention was reasonable, the court reasoned that “[t]hey cited [appellant’s] companion [for jaywalking]. I don’t believe it has to be an actual, ultimately determined to be a crime to be [an] appropriate reason to stop. It just has to be his good faith belief that a crime was committed. . . . Whether it was or was not ultimately jaywalking, I don’t believe is relevant. It stems down [to] whether [the officer] believes that jaywalking . . . has occurred.” The court also found that Officer Ramirez articulated sufficient reasons for conducting a patdown search and accordingly denied the motion to suppress.

DISCUSSION

Appellant contends his suppression motion should have been granted because the prosecution failed to establish that he was lawfully detained for jaywalking in violation of section 21955. We agree.

“An appellate court’s review of a trial court’s ruling on a motion to suppress is governed by well-settled principles. [Citations.] ¶ In ruling on such a motion, the trial court (1) finds the historical facts, (2) selects the applicable rule of law, and (3) applies the latter to the former to determine whether the rule of law as applied to the established facts is or is not violated. [Citations.] “The [trial] court’s resolution of each of these inquiries is, of course, subject to appellate review.” [Citations.] ¶ The court’s resolution of the first inquiry, which involves questions of fact, is reviewed under the deferential substantial-evidence standard. [Citations.] Its decision on the second, which is a pure question of law, is scrutinized under the standard of independent review. [Citations.] Finally, its ruling on the third, which is a mixed fact-law question that is however predominantly one of law, viz., the reasonableness of the challenged police conduct, is also subject to independent review. [Citations.] The reason is plain: “it is ‘the ultimate responsibility of the appellate court to measure the facts, as found by the trier, against the constitutional standard of reasonableness.’” [Citation.]” (*People v. Cox* (2008) 168 Cal.App.4th 702, 707 (*Cox*).)

“A detention is reasonable under the Fourth Amendment when the detaining officer can point to specific articulable facts that, considered in light of the totality of the circumstances, provide some objective manifestation that the person detained

may be involved in criminal activity.’ [Citation.]” (*Cox, supra*, 168 Cal.App.4th at p. 710.) Officer Ramirez testified that he stopped appellant for jaywalking in violation of section 21955, which states that “[b]etween adjacent intersections controlled by traffic control signal devices or by police officers, pedestrians shall not cross the roadway at any place except in a crosswalk.” According to the officer, appellant jaywalked by crossing St. Louis Street between 4th and 6th Streets without using a crosswalk.

The defense, however, presented Officer Ramirez with a map showing that an alley intersects with St. Louis Street a short distance south of 4th Street and well north of 6th Street. The officer also made a mark on the map to indicate he had seen appellant crossing St. Louis Street just south of 4th Street and north of the alley.

Because an alley intersects with St. Louis Street between 4th and 6th Streets, the latter two streets are not “adjacent intersections” for purposes of section 21955. (*People v. Blazina* (1976) 55 Cal.App.3d Supp. 35, 37-38 (*Blazina*).) When defense counsel so argued, the trial court stated it did not matter whether appellant was actually jaywalking because the Officer Ramirez had a good faith belief he was doing so, as evidenced by the fact that appellant’s companion was issued a citation for jaywalking.

But Officer Ramirez’s subjective belief that appellant was jaywalking is of no moment. The issue is whether the officer’s mistaken belief in this regard was objectively reasonable based on the facts and circumstances known to him when he decided to detain appellant for jaywalking. (*People v. Espino* (2016) 247 Cal.App.4th 746, 757.) “The Fourth Amendment tolerates only *reasonable* mistakes, and those mistakes—whether of fact or of law—must be *objectively* reasonable. We do not examine the

subjective understanding of the particular officer involved.” (*Heien v. North Carolina* (2014) __ U.S. __, 135 S.Ct. 530, 539.) Moreover, the People bore the burden of establishing that Officer Ramirez made a good faith mistake of fact or of law in concluding that appellant had jaywalked. (*Espino*, at p. 756; see also *People v. Willis* (2002) 28 Cal.4th 22, 36, citations omitted [“Where, as here, the prosecution invokes the good faith exception [to the warrant requirement], the government has ‘the burden . . . to prove that exclusion of the evidence is not necessary because of [that] exception’”].)

The People, however, failed to meet their burden. Indeed, no effort was made to establish that Officer Ramirez was either unaware of the alley that intersects St. Louis Street just south of where appellant crossed the street (a mistake of fact), or was aware of the alley but did not know that its presence meant appellant was not jaywalking (a mistake of law).

Even if we could discern whether the officer acted pursuant to a mistake of fact or a mistake of law, on this record there is no basis for concluding that the mistake was objectively reasonable. The alley that intersects with St. Louis Street is a short distance south of the location where Officer Ramirez saw appellant crossing the street. From the officer’s testimony, it can also be inferred that he is well aware of the area due to the frequent gang activity that takes place in and around Hollenbeck Park.

Moreover, this is not a case in which “the law at issue is ‘so doubtful in construction’ that a reasonable judge could agree with the officer’s view.” (*Heien, supra*, __ U.S. at p. __, 135 S.Ct. at p. 541 (conc. opn. of Kagan, J).) Although an objectively reasonable mistake of law may occur where courts have not provided guidance on the scope or meaning of a particular law

(see *Heien*, *supra*, 135 S.Ct. at p. 537), or where a statute is declared unconstitutional after a defendant's arrest (see *id.*, at p. 538), neither circumstance is present here. The jaywalking law has been in effect since 1931. (See *Brown v. Regan* (1938) 10 Cal.2d 519, 525.) In the ensuing 87 years, only a handful of cases addressing the law have been published. *Blazina* is one such case, and it has been on the books for over 40 years. Officer Ramirez is expected to know that the conduct at issue here did not constitute jaywalking. "[A]n officer can gain no Fourth Amendment advantage through a sloppy study of the laws he is duty-bound to enforce." (*Heien*, at pp. 539–540.)

Appellant sufficiently demonstrated that Officer Ramirez did not actually observe him jaywalking in violation of section 21955, and the People failed to meet their burden of proving that the officer's mistaken belief to the contrary was objectively reasonable. Moreover, it is undisputed that the firearm found in appellant's possession was the fruit of his unlawful detention. (See *People v. Thierry* (1998) 64 Cal.App.4th 176, 180.) Appellant's motion to suppress the firearm was thus erroneously denied. In light of our conclusion, we need not address appellant's alternative contention that his patdown search was unlawful even if his detention was lawful.⁴

⁴ Appellant has also filed a petition for writ of habeas corpus alleging ineffective assistance of counsel. We deny the petition as moot in a separate order filed this same date. We deem it pertinent to note, however, that the petition includes evidence that there is only a "stop sign" at the intersection of St. Louis Street and 6th Street. Because there is no traffic signal, it is not an "intersection" for purposes of section 21955. (*Quinn v. Rosenfeld* (1940) 15 Cal.2d 486, 491.) In light of this evidence,

DISPOSITION

The judgment is reversed and the case remanded with directions for the juvenile court to vacate its order denying appellant's motion to suppress and to enter a new order granting the motion.

NOT TO BE PUBLISHED.

PERREN, J.

We concur:

GILBERT, P. J.

TANGEMAN, J.

appellant was not jaywalking regardless of the presence of the alley between the intersections of 4th and 6th Streets.

Robert J. Totten, Commissioner
Superior Court County of Los Angeles

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Appeal, for Defendant and Appellant.

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