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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

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

2d Juv. No. B275741
(Super. Ct. No. YJ37692)
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

T.G.,

Defendant and Appellant.

T.G. appeals from a wardship order (Welf. & Inst. Code, § 602) committing her to a maximum term of three years eight months, entered after the juvenile court sustained an amended petition for first degree robbery (count 1; Pen. Code, § 211)¹, giving false information to a police officer (count 2;

¹ All further statutory references are to the Penal Code.

§ 148.9, subd. (a)), and first degree robbery of a train passenger (count 3; § 212.5, subd. (c)). The trial court placed appellant in the care, custody, and control of her probation officer for open placement. Appellant contends that the felony robbery convictions are not supported by substantial evidence. We affirm.

Facts

On May 11, 2016, at 11:30 p.m., appellant and three other girls approached Adam Palermo on the Red Line train in Los Angeles. Adam was busy playing a game on his cell phone. One of the girls, K.H., said “excuse me” several times. When Palermo looked up, K.H. grabbed the cell phone, shouted “East Coast Crips” and handed the phone to a taller girl, C.D.

Palermo jumped up and wrapped his arms around C.D. as she tried to pass the phone off to another girl. Palermo struggled with C.D. and managed to retrieve his phone but was stabbed in the shoulder. The girls took flight, jumped off the train at Union Station, and shouted that they were Crips.²

Minutes later, the girls boarded a second train and approached Tracey Buckner who was sitting down and holding a cell phone. K.H., a solidly built girl, appeared to be in charge and the other girls were “literally right behind her.” K.H. held a knife to Buckner’s face and yelled ““This is Compton Crip, bitch. Give me your phone.”” K.H. had a brief “tug of war” with Buckner and snatched the phone. After the girls fled, appellant used an earring to remove the SIM card from the stolen phone and gave the cell phone back to C.D.

² Palermo reported the robbery and identified K.H. and C.D. later that night.

Appellant was arrested and gave a false name. In a *Miranda* interview (*Miranda v. Arizona* (1966) 384 U.S. 436), appellant told Los Angeles County Sheriff Detective Jason Cartagena that she was present when the robberies were committed. Appellant admitted stealing cell phones in the past and said that a stolen iPhone was worth \$100 and \$80 if cracked. Appellant took possession of Buckner's cell phone after the girls left the train and used an earring to remove the SIM card. Detective Cartagena testified that removal of the SIM card from a stolen cell phone prevents law enforcement from tracking it and makes it easier to sell.

C.D. pled guilty to attempted second degree robbery with respect to the Palermo robbery. At appellant's adjudication hearing, C.D. testified as a prosecution witness and the factual basis for her plea was read into the record. C.D. admitted that she boarded the train with appellant, K.H., and a fourth girl, K.D. C.D. further admitted that K.H. used a knife to steal a cell phone from Palermo and handed the phone to C.D. As Palermo struggled to get the phone back, K.H. stabbed him in the shoulder. C.D. testified that C.D. and appellant helped K.H. take the phone back. On cross-examination, C.D. stated that appellant hopped on the second train with the other girls before the Buckner robbery.

Intent to Aid & Abet a Robbery

Appellant contends that the evidence does not support the finding that she intended to aid and abet the robberies. "On appeal we review the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence - that is, evidence that is reasonable, credible, and of solid value - from which a reasonable trier of fact

could find the defendant guilty beyond a reasonable doubt. Citations.]” (*People v. Stanley* (1995) 10 Cal.4th 764, 792.) We must presume in support of the judgment the existence of every fact that the trier of fact could have reasonably deduced from the evidence. (*People v. Boyer* (2006) 38 Cal.4th 412, 480.) We do not reweigh the evidence or consider matters of credibility. (*People v. Zamudio* (2008) 43 Cal.4th 327, 357.) “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.]” (*Ibid.*) The same standard of review applies to juvenile adjudications. (*In re Jesse L.* (1990) 221 Cal.App.3d 161, 165.)

In order to convict as an aider and abettor, the trial court had to determine whether appellant, in any way, directly or indirectly, aided the perpetrator (K.H.), with knowledge of the latter’s wrongful purpose. (*In re Lynette G.* (1976) 54 Cal.App.3d 1087, 1094 (*Lynette G.*)) Whether a defendant aided and abetted may be inferred from his or her presence at the scene of the crime, companionship, conduct, before and after the offense, and flight. (*People v. Campbell* (1994) 25 Cal.App.4th 402, 409; *Lynette G.*, *supra*, 54 Cal.App.3d at pp. 1094-1095.) To aid and abet a specific intent crime such as robbery, “the accomplice must “share the specific intent of the perpetrator”; this occurs when the accomplice “knows the full extent of the perpetrator’s criminal purpose and gives aid or encouragement with the intent or purpose of facilitating the perpetrator’s commission of the crime.” [Citation.] [Citation.]” (*People v. McCoy* (2001) 25 Cal.4th 1111, 1118.) With respect to robbery, the specific intent to permanently deprive the victim of his or her property is usually inferred from

all the facts and circumstances surrounding the crime. (*People v. Abilez* (2007) 41 Cal.4th 472, 506-507.)

In *Lynette G.*, *supra*, 54 Cal.App.3d 1087, defendant was in a group of four girls and one of the girls robbed a woman and took the woman's purse. The girls fled as a group and discarded the purse. (*Id.*, at p. 1091.) Defendant claimed there was insufficient evidence that she intended to aid and abet the robbery. (*Id.*, at p. 1094.) Rejecting the argument, the Court of Appeal held: "Testimony by witnesses at the trial disclosed that [the minor] was present at the scene of the crime and had fled with the perpetrator and two others after the crime had been committed and was still in their company shortly thereafter. Although flight, in and of itself, may be explained by a desire merely to disassociate oneself with an unexpected criminal activity, the trial court was not required to adopt that view; it could, reasonably, have concluded that had [the minor]'s flight been from fear of an unjustified charge of involvement, she also would have immediately disassociated herself from the other three girls." (*Id.*, at p. 1095.)

Here the circumstances are similar and support the finding that appellant intended to assist and did assist K.H. in robbing Palermo. Appellant and her cohorts approached Palermo and stood close by as K.H. threatened Palermo with the knife and grabbed his phone. Appellant remained in position as Palermo wrestled to get his phone and was stabbed. It was an orchestrated robbery. C.D. admitted that she and appellant helped K.H. take the phone back from Palermo. Appellant fled with K.H. and the other girls, and two or three of the girls shouted out the Crips name.

Appellant stayed with the girls as they boarded the second train and robbed Buckner at knife point. Appellant was arrested, gave a false name, and told a detective that she had stolen cell phones in the past and knew the street value of a stolen phone.

Based on the totality of the circumstances, the trial court reasonably concluded that appellant had the requisite intent to aid, promote, and encourage the commission of the robbery. (See, e.g., *In re Juan G.* (2003) 112 Cal.App.4th 1, 5.) Appellant was not an innocent, unwitting bystander. Appellant did not say anything but did stand in front of Palermo to intimidate him and helped K.H. take the phone from Palermo. “[S]uch conduct is a textbook example of aiding and abetting.” (*People v. Campbell, supra*, 25 Cal.App.4th at p. 409.) Appellant argues that she did not take possession of Palermo’s phone but robbery does not require that the robber escape with the loot. (*People v. Cooper* (1991) 53 Cal.3d 1158, 1165.)

Count 3 - Buckner Robbery

Appellant contends that there is no evidence that she intended to assist K.H. in the Buckner robbery. Appellant stood close by as K.H. held a knife to Buckner’s face and said “‘This is Compton Crip, bitch. Give me our phone.’” iAppellant did not say anything but stood menacingly close. Buckner said it was “‘more than a bullying process. It’s an attack. It’s an army of people coming up to you and taking something from you So, yes, I felt threatened with [appellant’s] presence.” After Buckner surrendered the phone, appellant fled with her cohorts and removed the SIM card to make the phone difficult to trace.

The intent required for robbery is seldom established with direct evidence but may be inferred from all the facts and

circumstances surrounding the robbery. (*People v. Abilez, supra*, 41 Cal.4th 472 at p. 507 [flight]; *People v. Campbell, supra*, 25 Cal.App.4th at p. 409 [failure to stop robbery].) “[Appellant] correctly points out that in general neither presence at the scene of a crime nor knowledge of, but failure to prevent it, is sufficient to establish aiding and abetting its commission. [Citations.]” (*Ibid.*) A defendant may aid or abet in the commission of a crime without having previously entered into a conspiracy to commit it. (*People v. Durham* (1969) 70 Cal.2d 171, 181.)

Disposition

The evidence clearly supports the finding that appellant aided and abetted the Palermo and Buckner robberies. The judgment is affirmed.

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YEGAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

Robin Miller Sloan, Judge

Superior Court County of Los Angeles

Gerald Peters, under appointment by the Court of Appeal, for Defendant and Appellant.

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