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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

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

2d Juv. No. B264613
(Super. Ct. No. 1461135)
(Santa Barbara County)

THE PEOPLE,

Plaintiff and Respondent,

v.

MARISSA H.,

Defendant and Appellant.

A mother finds her runaway daughter three weeks after the child fled from their home. The child physically resists mother's efforts to forcefully bring her home. Charged with battery of her mother, appellant claims she had the right to defend herself using reasonable force to resist her mother's efforts. Here we hold that a parent has the duty to care for and control a child and may use reasonable force in fulfilling that obligation.

The juvenile court sustained the allegations of a petition charging appellant with one count of battery (Pen. Code, § 242)¹ and three counts of resisting, obstructing or delaying a peace officer (§ 148, subd. (a)(1).) The court declared appellant a ward of the court (Welf. & Inst. Code, § 602) and placed her on house arrest for 30 days with credit for 18 days actually served.

Appellant contends substantial evidence shows that she acted in self defense and that she did not resist, obstruct or delay a peace officer. We affirm.

FACTS

Appellant, a 15-year-old, ran away from home for the second time. Three weeks later, her mother, V.L., located appellant at an apartment complex where she was visiting one of her friends. As appellant and V.L. began walking toward V.L.'s car, appellant "was giving [V.L.] attitude and ignoring [her]." V.L. called the police, hoping they would take appellant to Juvenile Hall to keep her from running away again.

Police officers Mathew Silver, Rocio Flores and Anthony Vargas responded to the call. After V.L. explained the situation, the officers stated they would not arrest appellant or take her to Juvenile Hall. Flores told appellant that she had to go home with her mother. Appellant was "uncooperative, hesitant to answer questions, [and] wouldn't make eye contact." Silver instructed V.L. to grab appellant by the arms, or possibly by her hair, "to get her home because she was not doing what she was told."

Appellant became agitated and refused to get in the car. V.L. said, "Let's go," and grabbed appellant by her sweater. Appellant pulled away from V.L., reiterated that she was not going home and warned V.L. not to touch her. V.L. attempted to grab appellant's sweater a few more times, but appellant continued to resist. In reaching for her sweater again, V.L. grabbed appellant by her hair. Appellant then pushed V.L. away with both hands.

¹ All statutory references are to the Penal Code unless otherwise stated.

Concerned that appellant might run, Vargas grabbed appellant's right arm "to keep her from taking off." Silver also intervened because appellant "was resisting her mother and [had] pushed her mother, which is a crime." Silver grabbed appellant's left wrist and "attempted to put her arm behind her back to handcuff her and safely detain her." Appellant broke free from Silver's grasp and also tried to pull away from Vargas. This prompted Flores to take her left arm and to tell her to stop resisting.

Appellant "stiffened up and . . . locked her elbows so that [the officers] couldn't really sit her down." Vargas placed her arm behind her back, and Silver pulled appellant to the ground because he "felt it was necessary at that point to take her to the ground to safely handcuff her." Once appellant was on the ground, she complied with the officers and was arrested.

Appellant testified that she did not want to go home with her mother. She stated that after V.L. called the police, Silver told V.L. to grab appellant by the hair and drag her to the car. Appellant pulled away from V.L. when V.L. grabbed appellant's sweater and pulled her hair. Appellant did not attempt to run away.

Appellant testified that the officers grabbed both of her arms and that she tried to adjust her arm so that it would not hurt. As she was being pulled to the ground by the hair, she heard one of the officers say "you cannot win [sic] an officer."

DISCUSSION

Standard of Review

"The same standard governs review of the sufficiency of evidence in adult criminal cases and juvenile cases: we review the whole record in the light most favorable to the judgment to decide whether substantial evidence supports the conviction, so that a reasonable fact finder could find guilt beyond a reasonable doubt. [Citations.]" (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 540.) We resolve all conflicts in the evidence and questions of credibility in favor of the

verdict, and indulge every reasonable inference the jury could draw from the evidence. (*People v. Autry* (1995) 37 Cal.App.4th 351, 358.) Reversal on this ground is unwarranted unless "upon no hypothesis whatever is there sufficient substantial evidence to support [the conviction]." (*People v. Bolin* (1998) 18 Cal.4th 297, 331.)

Self-Defense

Appellant claims that substantial evidence establishes that she acted in lawful self-defense when she pushed her mother. We disagree.

Parents have a legal duty 'to exercise reasonable care, supervision, protection, and control over their minor child.' (*Brekke v. Wills* (2005) 125 Cal.App.4th 1400, 1411.) To fulfill this duty, parents have a right to reasonably discipline their children and may administer reasonable punishment without being criminally liable. (*People v. Clark* (2011) 201 Cal.App.4th 235, 249; *Emery v. Emery* (1955) 45 Cal.2d 421, 429-430; see *People v. Whitehurst* (1992) 9 Cal.App.4th 1045, 1049-1050.) The right to discipline a child includes the right to inflict reasonable corporal punishment. (*Whitehurst, supra.* at p. 1050.) "[T]he difference between legitimate discipline of a child and battery or child abuse is one of degree, that whether corporal punishment falls within parameters of parent's right to discipline involves consideration of necessity for the punishment and whether amount of punishment was reasonable or excessive" (*People v. Smith* (2002) 98 Cal.App.4th 1182, 1195; *Whitehurst, Supra.* at p. 1050.)

Here, appellant had run away from home for the second time and had been missing for approximately three weeks. She verbally and physically resisted V.L.'s efforts to take her home, and V.L. was concerned that she would run away again. Only after appellant repeatedly evaded V.L.'s efforts to get her inside the car did V.L. grab appellant's hair. Whether or not the grabbing was intentional, the evidence shows that V.L. acted out of a genuine disciplinary motive to restrain a teenager from escaping and running away from home. There was no evidence of

any other reason for V.L.'s actions. V.L. did not use a weapon or other object to restrain appellant. Nor did she injure appellant or make any threats. The degree of parental force was both necessary and reasonable under the circumstances.

Because V.L.'s conduct was lawful, appellant cannot justify her battery on her mother as a reasonable response in self-defense. Furthermore, appellant had no honest and reasonable belief that bodily injury was imminent. (*People v. Minifie* (1996) 13 Cal.4th 1055, 1064-1065.) V.L. was not trying to punish or hurt appellant; she was merely trying to take her home after she had run away.

Resisting, Obstructing or Delaying a Peace Officer

Appellant contends there was insufficient evidence that she willfully resisted the arresting officers because she "did not disobey any police command." We are not persuaded.

"Every person who willfully resists, delays, or obstructs any . . . peace officer . . . in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed" is guilty of a misdemeanor. (§ 148, subd. (a).) Section 148 encompasses a wide range of conduct, including merely walking or running away, going limp upon arrest, physically resisting arrest, struggling after arrest and brandishing a weapon. (See *People v. Quiroga* (1993) 16 Cal.App.4th 961, 967, and cases cited therein.) A refusal to cooperate for a few moments may be a violation of section 148, even without a physical struggle. (See *In re Bacon* (1966) 240 Cal.App.2d 34, 52, disapproved on another point in *In re Brown* (1973) 9 Cal.3d 612, 623-624.)

As appellant concedes, the act of pulling away from a police officer can result in a violation of section 148. In *In re Gregory S.* (1980) 112 Cal.App.3d 764, police officers responded to a harassment complaint. (*Id.* at p. 770.) The accused minor refused to speak with police and started to walk away. When the officer took the minor by the arm, the minor struggled and attempted to pull away.

The officer then informed the minor that he was under arrest for delaying and obstructing a peace officer in the discharge of his duty. (*Id.* at p. 771.) The court found that the minor was aware of the officer's desire to detain him and "had the concomitant duty to permit himself to be detained." (*Id.* at p. 778, citation omitted.)

The same is true here. Once appellant committed a crime by pushing her mother, Officers Silver and Vargas attempted to detain her. She resisted the attempt by breaking free of Silver's grasp and by trying to pull away from Vargas. After Officer Flores took her arm, he orally instructed her to stop resisting. At that point, appellant was aware of the officers' desire to detain her and it was her duty to submit to it. (*In re Gregory S.*, *supra*, 112 Cal.App.3d at p. 778.) Instead, she "stiffened up and . . . locked her elbows so that [the officers] couldn't really sit her down or anything. She just locked her body up." This physical resistance to the officers' actions and verbal instruction establishes appellant's violation of section 148. (See *ibid.*) Because appellant physically resisted the officers' attempt to detain her after they observed her commit a battery, substantial evidence supports her conviction. (See *People v. Bugg* (1947) 79 Cal.App.2d 174, 176.)

Lastly, appellant suggests there is insufficient evidence that she willfully resisted the officers because the "court did not explain how appellant's actions rose to the level of violating section 148." The juvenile court is not required, however, to issue a formal statement of decision or to make special legal or factual findings after a court trial. It is the trial court's ruling, not its reasoning, that we review for substantial evidence. (*In re L.K.* (2011) 199 Cal.App.4th 1438, 1448.) Appellant has not demonstrated that the court's comments about the law or the evidence "unambiguously disclose that its basic ruling embodied or was based on a misunderstanding of the relevant law." (*In re Jerry R.* (1994) 29 Cal.App.4th 1432, 1440.)

DISPOSITION

The order of wardship is affirmed.

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PERREN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

Arthur A. Garcia, Judge

Superior Court County of Santa Barbara

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Defendant and Appellant.

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