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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

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

B234899
(Los Angeles County
Super. Ct. No. FJ 45544)

THE PEOPLE,

Plaintiff and Respondent,

v.

C.C.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County, Robert J. Totten, Juvenile Court Referee. Affirmed.

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, Assistant Attorney General, Chung L. Mar and Corey J. Robins, Deputy Attorneys General, for Plaintiff and Respondent.

* * * * *

Minor C.C. appeals from the juvenile court's order adjudicating him a ward of the court. Appellant contends that there was insufficient evidence to support the court's findings. We affirm.

FACTUAL BACKGROUND

On June 29, 2010, at approximately 12:00 p.m., Jaime Rovero was in the area of Cesar Chavez Avenue and St. Louis Street in Boyle Heights. He was inside a store and near an open doorway. Rovero heard a gunshot and looked in the direction of the shot to see the shooter holding a gun and wearing a distinctive hat. The hat was a plain blue baseball cap that was "ironed up on top" so that the top was flat. Rovero had never seen that style of baseball cap in person until then, but had seen such a style in pictures or on television shows. He had an unobstructed view of the gunman, who was across the street from him. The gunman was not facing Rovero straight on; the side of his body was facing Rovero. The gunman ran into a nearby restaurant after shooting.

Rovero called the police and gave officers a description of the gunman. The gunman was wearing a white shirt, blue pants, and the blue hat, was approximately five feet seven inches to five feet nine inches tall, weighed approximately 130 to 140 pounds, and was approximately 20 years old.

Officer Jonathan Carlyle arrived at the scene and drove Rovero to view appellant in the field. Approximately five to 10 minutes elapsed from the time of the shooting to the time Officer Carlyle took Rovero to view appellant. He viewed appellant from the police car across the street from where appellant was being held, which was a distance of approximately 36 to 40 feet, and appellant was facing directly toward him. Although Rovero did not have a view of the gunman's face, he identified appellant based on his hat; he said it was the same hat the gunman was wearing, although it was in a different position. When Rovero saw the gunman earlier, he was wearing the hat so that the brim was sticking straight out. Appellant was wearing the hat so that the brim was sticking upward and to the right. Rovero was 95 percent sure it was the same hat. He also said it looked like appellant had changed clothes because he was no longer wearing the white

shirt and blue pants. At trial Rovero said appellant was wearing a dark-colored T-shirt and red shorts when he identified appellant.

Officer Carlyle took appellant to the police station in his patrol car. The officer did not know how long it had been since the back of that patrol car had been cleaned. Officer Carlyle booked appellant and noted appellant's clothing in his report, which were the same clothes appellant was wearing when he was detained -- a gray shirt, blue jeans, and a blue hat. The report listed appellant's weight as 125 pounds. Appellant was 17 years old at the time.

Officer Carlyle took samples from both of appellant's hands for gunshot residue testing. He took the samples in the holding cell. The holding cell was cleaned twice a day, but the officer did not know how long it had been since the last cleaning when appellant was placed in the cell. Appellant was in the holding cell for approximately two minutes before Officer Carlyle took the samples. The officer did not recall appellant touching anything in the holding cell before he took the samples.

Both of appellant's hands tested positive for gunshot residue. It is possible someone could test positive for gunshot residue without having fired a gun, if that person came into contact with transferred residue.

PROCEDURAL HISTORY

In a petition filed under Welfare and Institutions Code section 602, appellant was alleged to have discharged a firearm with gross negligence, to have been a minor in possession of a firearm, and to have been a minor in possession of live ammunition. He denied all three counts. After a contested adjudication hearing, the court found all three counts to be true. The court determined appellant to be a ward of the court, gave him 395 days of predisposition credits, and released him. The juvenile court then terminated jurisdiction. Appellant filed a timely notice of appeal.

DISCUSSION

Appellant's sole contention on appeal is that there was insufficient evidence to support the juvenile court's finding that he was the shooter. We disagree and hold the evidence was sufficient.

When an appellant claims that his or her conviction was based on insufficient evidence, we must begin with the presumption that the evidence was sufficient, and the appellant bears the burden of convincing us otherwise. (*People v. Sanghera* (2006) 139 Cal.App.4th 1567, 1573.) From that presumption, we “review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence -- that is, evidence which is reasonable, credible, and of solid value -- such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.” (*People v. Johnson* (1980) 26 Cal.3d 557, 578.) Moreover, we must accept logical inferences that the trier of fact might have drawn from the circumstantial evidence. (*People v. Maury* (2003) 30 Cal.4th 342, 396.)

The court’s finding that appellant was the shooter was supported by Rovero’s description of the shooter and his identification of appellant. Rovero described the shooter as approximately 20 years old, approximately 130-140 pounds, and wearing a white shirt, blue pants, and the blue hat with the distinctive flattened top. Appellant’s actual appearance and characteristics were markedly similar: he was 17 years old, approximately 125 pounds, and wearing a gray shirt, blue jeans, and a blue hat when he was detained and arrested. Moreover, a mere five to 10 minutes after Rovero witnessed the shooting and called police, he identified appellant’s hat as the same hat the shooter was wearing. The court’s finding was additionally supported by the positive gunshot residue test on both of appellant’s hands. Altogether, this constituted sufficient evidence to support the court’s finding.

DISPOSITION

The judgment is affirmed.

FLIER, J.

WE CONCUR:

BIGELOW, P. J.

RUBIN, J.