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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

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

B275253  
(Los Angeles County  
Super. Ct. No. TJ21753)

THE PEOPLE,

Plaintiff and Respondent,

v.

J.F.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of  
Los Angeles County, Gibson W. Lee, Judge. Affirmed.

Holly Jackson, under appointment by the Court of Appeal,  
for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief  
Assistant Attorney General, Lance E. Winters, Senior Assistant  
Attorney General, Victoria B. Wilson and Carl N. Henry, Deputy  
Attorneys General, for Plaintiff and Respondent.

## INTRODUCTION

A school police officer arrested J.F., a minor student, after witnessing her spit on the high school principal during an altercation at school. The juvenile court subsequently sustained allegations against J.F. for vandalism and resisting arrest. J.F. argues the evidence was insufficient to support the finding she resisted arrest because the officer lacked probable cause to arrest her, making the arrest unlawful, and J.F. could not have resisted an unlawful arrest. J.F.'s arrest, however, was not unlawful. Because spitting on another person can be a crime (an assault or a battery), the officer had probable cause to arrest J.F. Therefore, we affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

### 1. *Sergeant Martin Observes a Struggle Near the Gym*

Sergeant Mack Martin of the Compton School Police Department was investigating an unrelated incident in the front office at Centennial High School when a secretary told him there was a disturbance in the gym. Sergeant Martin went to investigate. He proceeded toward the gym through the "Quad,"<sup>1</sup> where about 100 students were gathered for lunchtime.

At the entrance to the gym, Sergeant Martin saw the principal, Jesse Jones, and Campus Security Assistant "Bull" Johnson struggling to restrain J.F., a 17-year-old female student. Sergeant Martin testified that Johnson was behind J.F. "trying to

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<sup>1</sup> The "Quad" is a central outdoor common area next to the entrance to the gym.

hold her because she was moving from side to side . . . away from his grasp.” Jones was standing in front of J.F., holding both her wrists. Sergeant Martin witnessed J.F. spit on Jones, with J.F.’s saliva landing on Jones’s pant leg.

## 2. *J.F. Resists Arrest*

Sergeant Martin approached J.F. and said, “Calm down, I’m here to help you. We’ll go to the front office.” J.F. “was yelling out” and continued to struggle. Concerned for his safety because the altercation was attracting a large group of students, Sergeant Martin called for backup. Sergeant Martin handcuffed J.F. and began to escort her to the front office. J.F. intentionally “went limp” and collapsed on the ground.

Sergeant Martin’s partner, Officer Eric Robinson, arrived and parked his patrol car at the edge of the Quad. The two officers lifted J.F. under her arms and began to escort her to Officer Robinson’s patrol car.

As the officers were approaching the patrol car with J.F., J.F.’s mother appeared and began to interfere.<sup>2</sup> J.F. intentionally collapsed again, and this time she “wrap[ped] her legs around the mom’s ankle[s] and she wouldn’t let go.” It took “several minutes to get her pulled loose from her mother” because “she was still twisting and turning and pulling.” Meanwhile, a crowd of students was gathering around the patrol car.

The officers forced J.F. into the back seat of the patrol car, shut the door, and arrested her mother. Moments later, the

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<sup>2</sup> According to the probation report, J.F. “was supposed to be waiting in the main office for her mother to pick her up from school at the time of the incident.”

patrol car's rear passenger window shattered from the inside, and Officer Robinson saw J.F.'s "feet [kicking] outward." Officer Robinson approached J.F. and "continued to tell her to calm down," but J.F. remained irate. The officer sprayed J.F.'s face with pepper spray.

J.F. dove headfirst through the broken window with her hands still cuffed behind her. Her abdomen rested on shards of glass that remained in the broken window frame, while her upper body hung out of the patrol car "so much so that she was tilting downward." Officer Robinson grabbed J.F.'s shoulders and hair to prevent her from landing face-first in the broken glass on the concrete beneath her.

Officer Robinson took J.F. out of the patrol car and held her face down on the pavement with his knee between her shoulder blades. He "got on [his] radio and . . . had dispatch contact the Compton Fire Department for [a] . . . 17-year-old female that was pepper sprayed."

J.F. was "still a little out of control." The two officers and two school staff members walked J.F. to an empty classroom nearby. J.F. was transported to a nearby hospital to receive treatment for her injuries.

### 3. *The Juvenile Court Sustains a Petition Against J.F.*

The People filed a wardship petition against J.F. under Welfare and Institutions Code section 602 alleging one count of misdemeanor resisting, delaying, or interfering with public or peace officers in the discharge of their duties (Pen. Code, § 148, subd. (a)(1)) and one count of misdemeanor vandalism for breaking the police car window (Pen. Code, § 594, subd. (a)). After granting J.F.'s motion to suppress evidence of the

circumstances leading up to her physical altercation with the principal and Johnson, the juvenile court found both counts true and sustained the petition. The court declared J.F. a ward of the juvenile court, ordered her home on probation, and awarded her one day of predisposition credit. J.F. filed a timely notice of appeal.

## DISCUSSION

### A. *Standard of Review and Applicable Law*

The standard of review for a challenge to the sufficiency of the evidence in a juvenile adjudication is the same as the standard applied to criminal proceedings. (*In re Kyle T.* (2017) 9 Cal.App.5th 707, 712; *In re Chase C.* (2015) 243 Cal.App.4th 107, 113.) “In determining the sufficiency of the evidence, ‘the relevant question is 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.’ [Citation.] ‘[T]he court must 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.’” (*In re Z.A.* (2012) 207 Cal.App.4th 1401, 1424-1425; see *People v. Streeter* (2012) 54 Cal.4th 205, 241.)

We “‘presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence.’” (*In re Ryan N.* (2001) 92 Cal.App.4th 1359, 1372.) “Conflicts and even testimony subject to justifiable suspicion do not justify a

reversal, for it is the exclusive province of the trier of fact to determine the credibility of a witness.” (*In re Cheri T.* (1999) 70 Cal.App.4th 1400, 1404.) “The testimony of a single witness is sufficient to support a conviction,” provided the events described are neither inherently improbable nor physically impossible. (*People v. Elliott* (2012) 53 Cal.4th 535, 585.) “When the circumstances reasonably justify the [juvenile court’s] findings, a reviewing court’s opinion that the circumstances might also be reasonably reconciled with contrary findings does not warrant reversal of the judgment.” (*People v. Mendoza* (2011) 52 Cal.4th 1056, 1069.)

Penal Code section 148, subdivision (a), provides: “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” is guilty of a misdemeanor. “The legal elements of a violation of section 148, subdivision (a) are as follows: (1) the defendant willfully resisted, delayed, or obstructed a peace officer, (2) when the officer was engaged in the performance of his or her duties, and (3) the defendant knew or reasonably should have known that the other person was a peace officer engaged in the performance of his or her duties.’ [Citation.] ‘The offense is a general intent crime, proscribing only the particular act (resist, delay, obstruct) without reference to an intent to do a further act or achieve a future consequence.’” (*In re Amanda A.* (2015) 242 Cal.App.4th 537, 546; see *In re Muhammed C.* (2002) 95 Cal.App.4th 1325, 1329.)

In a juvenile delinquency case, the court cannot sustain a petition alleging a violation of Penal Code section 148, subdivision (a), “unless the officer was acting lawfully at the time the offense against the officer was committed.” (*In re Manuel G.*

(1997) 16 Cal.4th 805, 815; see *In re Chase C.*, *supra*, 243 Cal.App.4th at p. 114.) This rule “flows from the premise that because an officer has no duty to take illegal action, he or she is not engaged in “duties,” for purposes of an offense defined in such terms, if the officer’s conduct is unlawful. . . .” (*Manuel G.*, at p. 815; see *In re Chase C.*, at p. 114.)

A warrantless arrest must be supported by probable cause. (See Pen. Code, § 836; *People v. Celis* (2004) 33 Cal.4th 667, 673; *People v. Mower* (2002) 28 Cal.4th 457, 468.) “A peace officer may make a warrantless arrest when ‘[t]he officer has probable cause to believe that the person to be arrested has committed a public offense in the officer’s presence.’ (§ 836, subd. (a)(1).) ‘The term “probable cause” has an established meaning in connection with criminal proceedings, and signifies a level of proof below that of proof beyond a reasonable doubt, or even proof by a preponderance of the evidence.’ [Citation.] “Reasonable cause to arrest exists when the facts known to the arresting officer would lead a reasonable person to have a strong suspicion of the arrestee’s guilt. [Citation.] This is an objective standard. [Citation.]” [Citation.] “It is the right to arrest that is being tested. . . . The question with which we are concerned is not ‘why did the officer want to arrest this particular defendant?’ but rather ‘was there reasonable cause to arrest this particular defendant?’”” (*Baranchik v. Fizulich* (2017) 10 Cal.App.5th 1210, 1218.) A warrantless arrest without probable cause is unlawful. (See *In re J.G.* (2010) 188 Cal.App.4th 1501, 1505; *People v. Gonzalez* (1998) 64 Cal.App.4th 432, 439.)

B. *Officer Robinson Had Probable Cause To Arrest J.F.*

J.F. argues Sergeant Martin did not have probable cause to arrest her because spitting is a battery only if the saliva makes contact with the victim's skin and no rational trier of fact could have concluded, based on Sergeant Martin's testimony, that J.F.'s saliva actually landed on Jones's skin. J.F. also argues that Sergeant Martin did not have probable cause to arrest her because "[t]he record is silent [as to what Jones and Johnson] observed that justified . . . the principal having both hands on [J.F.'s] wrists and then the other person who's the campus security assistant, restraining her."

There was sufficient evidence that Sergeant Martin was performing his legal duty when J.F. was resisting. By spitting on or at Jones, J.F. committed a crime in the presence of a police officer. (See *People v. Hamilton* (2009) 45 Cal.4th 863, 934 ["evidence that defendant spat upon [a Sheriff's deputy] was sufficient for jurors to find defendant committed a battery"]; see also *People v. Delgado* (2017) 2 Cal.5th 544, 583 [Supreme Court has "consistently upheld admission of conduct amounting to a misdemeanor battery" including in *Hamilton*, where the "defendant spat on a deputy"].) Even if J.F. missed, she committed an assault. (See *Hamilton, supra*, at p. 934 ["[t]he evidence was also sufficient for the jurors to find defendant committed an assault"]; *People v. Rocha* (1971) 3 Cal.3d 893, 899; *People v. Elam* (2001) 91 Cal.App.4th 298, 308; see also *People v. Wright* (2002) 100 Cal.App.4th 703, 706.) And, contrary to J.F.'s contention, it does not matter that Sergeant Martin did not see how the struggle began or how J.F. came to be struggling with the principal. Sergeant Martin observed the spitting; that was enough.



There was also substantial evidence that J.F. resisted arrest. J.F. flung herself to the ground to prevent Sergeant Martin from escorting her out of a situation where her actions threatened the safety of herself, Sergeant Martin, and the other students in the Quad. J.F. delayed Sergeant Martin and Officer Robinson for several minutes as they tried to separate her from her mother and forced her into the patrol car. And she damaged public property and risked serious bodily injury in her attempt to escape the patrol car by kicking out the windows.

Citing cases concerned with battery by gassing, J.F. argues spitting is a battery only where a bodily fluid makes contact with the victim's skin. (See Pen. Code, § 4501.1.) These cases, and Penal Code section 4501.1, however, apply to prisoners in state prison who fling bodily fluids on prison guards. (See *People v. Flores* (2009) 176 Cal.App.4th 924.) This case involves simple battery under Penal Code section 242, or assault under Penal Code section 240, and whether Sergeant Martin had probable cause to believe J.F. had committed simple battery (or assault) on her high school principal. Because spitting on or at another person is an offensive touching within the meaning of Penal Code section 242 (*Hamilton, supra*, 45 Cal.4th at p. 863), he did.

## **DISPOSITION**

The judgment is affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

ZELON, J.