

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

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

B248499

(Los Angeles County
Super. Ct. No. TJ20463)

THE PEOPLE,

Plaintiff and Respondent,

v.

D.B.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County,
Tamara Hall, Judge. Affirmed.

Marta I. Stanton, 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, Senior Assistant Attorney General, and Victoria B. Wilson,
Supervising Deputy Attorney General, for Plaintiff and Respondent.

The juvenile court sustained a petition pursuant to Welfare and Institutions Code section 602 alleging D.B. had committed misdemeanor vandalism and ordered him suitably placed. The court dismissed a second count alleging D.B. had also committed misdemeanor battery. On appeal D.B. contends the evidence is insufficient to support the vandalism finding. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On the morning of February 3, 2013 D.B., then 13 years old, was at home with his mother, Glenda B. Glenda asked D.B. to clean his room while she made breakfast. D.B. responded by having a tantrum and demanded to eat something other than what Glenda was cooking. When Glenda refused, D.B. produced a plastic sword and began hitting it against the kitchen counter. Glenda told D.B. to stop, but he continued to wield the sword. Glenda heard a loud noise, turned and saw the glass oven door had shattered and glass shards on the floor. D.B. repeatedly apologized and said he “didn’t know it was going to break.” Glenda retrieved a belt to hit D.B. on the buttocks, as she had in the past. D.B. resisted; a struggle ensued; and Glenda telephoned the police.

DISCUSSION

1. Standard of Review

“The same standard governs our review of the sufficiency of evidence in juvenile cases as in adult criminal cases: ‘[W]e review the whole record to determine whether any rational trier of fact could have found the essential elements of the crime or special circumstances beyond a reasonable doubt. [Citation.] The record must disclose substantial evidence to support the verdict—i.e., evidence that is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.] In applying this test, we review the evidence in the light most favorable to the prosecution and presume in support of the judgment the existence of every fact the jury could reasonably have deduced from the evidence. [Citation.] ‘Conflicts and even testimony [that] is subject to justifiable suspicion do not justify the reversal of a judgment, for it is the exclusive province of the trial judge or jury to determine the credibility of a witness and the truth or falsity of the facts upon which a

determination depends. [Citation.] We resolve neither credibility issues nor evidentiary conflicts; we look for substantial evidence. [Citation.]” [Citation.] 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.” (*In re Christopher F.* (2011) 194 Cal.App.4th 462, 471, fn. 6, quoting *People v. Zamudio* (2008) 43 Cal.4th 327, 357.)

2. *Substantial Evidence Supports the Finding D.B. Maliciously Damaged Property*
Penal Code section 594, subdivision (a), provides that every person who “maliciously” defaces, damages or destroys property belonging to another is guilty of vandalism. If, as in this case, the amount of damage is less than \$400, the offense is a misdemeanor. (Pen. Code, § 594, subd. (b)(2)(A).) “[T]he term ‘maliciously,’ defining the requisite mens rea of the offense, ‘import[s] a wish to vex, annoy, or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.’” (*People v. Campbell* (1994) 23 Cal.App.4th 1488, 1493, citing Pen. Code, § 7, subd. 4; see also CALCRIM No. 2900.)

Ordinarily, the use of the term “malice” or “maliciously” in a penal statute is an expression of general criminal intent. (See *People v. Atkins* (2001) 25 Cal.4th 76, 85-86 [explaining the difference between general and specific intent in the context of the arson statute].) Use of the term does not transform an offense into a specific intent crime, but the “malice requirement ensures that the act is ‘done with a design to do an intentional wrongful act . . . without any legal justification, excuse or claim of right.’” (*Id.* at p. 88.) Accordingly, requiring evidence the defendant acted with malice ensures the proscribed act was “a deliberate and intentional act, as distinguished from an accidental or unintentional . . . act” (*Ibid.*)

Characterizing his act of breaking the oven door as accidental, D.B. contends there was insufficient evidence of his intent to damage property. He emphasizes he exhibited remorse immediately after breaking the door, repeatedly apologizing to his mother and explaining he did not intend to shatter the glass.

Although D.B.’s version of the incident is plausible, a rational trier of fact could have found that D.B., angry with his mother for wanting him to clean his room, chose to defy her, first by demanding a different breakfast, then by hitting the kitchen counter with the sword, and finally, when those actions proved unsatisfactory, by deliberately striking the oven door with the sword. (See *People v. Kurtenbach* (2012) 204 Cal.App.4th 1264, 1282 [jury was not required to find defendant acted with an intent to do damage to the victims’ house; “the jury could find that [defendant] acted maliciously based on his commission of *any wrongful act* that caused damage to the neighbors’ house”].) Nothing in the record requires the conclusion D.B.’s conduct was inadvertent. Rather his apology reasonably suggests an acknowledgement of wrongdoing, possibly in an effort to mitigate his punishment. Accepting all reasonable inferences in support of the juvenile court’s order, as we must, the evidence is sufficient to support the finding D.B. maliciously damaged property.

DISPOSITION

The juvenile court’s order is affirmed.

PERLUSS, P. J.

We concur:

ZELON, J.

SEGAL, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.