

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 SIX

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

2d Juv. No. B289573  
(Super. Ct. No. YJ39267)  
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

M.W.,

Defendant and Appellant.

M.W. appeals the juvenile court's order that declared him a ward of the court. (Welf. & Inst. Code, § 602.) After the court denied M.W.'s motion to suppress evidence (Welf. & Inst. Code, § 700.1), it found true allegations that he was a minor in possession of a firearm (Pen. Code,<sup>1</sup> § 29610; count 1), was a

---

<sup>1</sup> All further unlabeled statutory references are to the Penal Code.

minor in possession of ammunition (§ 29650; count 2), gave false information to a police officer (§ 148.9, subd. (a); count 3), and resisted a police officer (§ 148, subd. (a)(1); count 4). It ordered him placed at home on probation.

M.W. contends the juvenile court's order should be reversed because the court erroneously denied his motion to suppress evidence. We affirm.

#### FACTUAL AND PROCEDURAL HISTORY

Los Angeles Police Officers Sidney Oliveira and Justin Mascardo saw a car attempt to back into a parking space in front of a liquor store. It did not have a front license plate. The officers turned into the parking lot to conduct a traffic stop.

M.W. was in the front passenger seat of the car. He and the other three occupants appeared "very fidgety," "shocked," and "scared." Officer Oliveira saw M.W. turn and reach toward the back seat as her patrol vehicle approached the car.

The officers turned on their overhead lights, stopped the car, and ordered the occupants to exit. M.W. told Officer Mascardo his name was "Giovanni Henderson." He also gave the officer a false name for the driver.

Officer Oliveira ran the car's registration. It was expired. None of the occupants was the registered owner of the car, and none shared a last name with the registered owner. The driver did not have a valid license.

Pursuant to department policy, the officers conducted an inventory search before they impounded the car. Officer Mascardo saw M.W. sweat and turn toward the car during the search. When Officer Oliveira looked in the back seat, she saw that a rear seat cushion was askew. She lifted the cushion and

saw the butt of a handgun near the area toward which she had seen M.W. reach. The gun had five rounds of ammunition inside.

M.W. moved to suppress the evidence found in the car and the statements he made to Officer Mascardo. The juvenile court denied the motion. It determined that, as a passenger, M.W. could not challenge the inventory search. Even if he could, the search was lawful because the driver's license was invalid, the car's registration was expired, and the officers followed department policy when they searched the car.

### DISCUSSION

#### *Counts 1 and 2*

M.W. contends the juvenile court's true findings on counts 1 and 2 should be reversed because Officers Oliveira and Mascardo conducted the inventory search of the car in bad faith. We conclude that M.W. lacks the required expectation of privacy to contest the search.

The Fourth Amendment right to be free from unreasonable searches and seizures is personal, and "may not be vicariously asserted." (*Alderman v. United States* (1969) 394 U.S. 165, 174.) Accordingly, only a person with a legitimate expectation of privacy in the place searched or item seized may claim the Fourth Amendment's protections. (*People v. Jenkins* (2000) 22 Cal.4th 900, 972.) A defendant bears the burden of showing that that expectation exists. (*Ibid.*) We defer to the juvenile court's factual findings if supported by substantial evidence, and exercise our independent judgment to determine whether, on the facts found, the search violated the Fourth Amendment. (*People v. Camacho* (2000) 23 Cal.4th 824, 830.)

The juvenile court properly denied M.W.'s motion to suppress evidence because M.W. had no legitimate expectation of

privacy in the car Officers Oliveira and Mascardo searched. He was neither the driver nor registered owner of the car. A person without a possessory or property interest in a vehicle cannot claim a legitimate expectation of privacy in the vehicle. (*Rakas v. Illinois* (1978) 439 U.S. 128, 148 (*Rakas*); *People v. Valdez* (2004) 32 Cal.4th 73, 121-122.) And as the front passenger, he had no expectation of privacy in the area underneath the rear seat. (*Rakas*, at pp. 148-149; *Valdez*, at p. 122.)

M.W. also had no legitimate expectation of privacy in the handgun Officer Oliveira seized. It is reasonably inferred that M.W. abandoned the gun when he exited the car. A person does not have a legitimate expectation of privacy in abandoned property. (*Abel v. United States* (1960) 362 U.S. 217, 241; *People v. Parson* (2008) 44 Cal.4th 332, 345.)

M.W.'s claim that he was the "target" of the vehicle search does not give him the legitimate expectation of privacy necessary to contest the search. The *Rakas* court specifically rejected that theory nearly 40 years ago. (*Rakas, supra*, 439 U.S. at pp. 132-140.)

We also reject M.W.'s suggestion that Officer Oliveira carried out the inventory search in bad faith. Officer Oliveira testified that she searched the car prior to impounding it pursuant to department policy. The juvenile court impliedly found her credible when it determined that the inventory search was lawful. We defer to that determination. (*People v. Armstrong* (2016) 1 Cal.5th 432, 451.) The fruits of the search were admissible. (*Colorado v. Bertine* (1987) 479 U.S. 367, 372-374 [evidence discovered during inventory search admissible where police followed standard procedures and did not act in bad faith].)

*Counts 3 and 4*

M.W. contends the juvenile court's true findings on counts 3 and 4 should be reversed because Officers Oliveira and Mascardo were not lawfully performing their duties when they seized him. (See *Brendlin v. California* (2007) 551 U.S. 249, 257-258 [vehicle passenger may raise a Fourth Amendment challenge to a traffic stop].) We disagree.

Officers Oliveira and Mascardo were lawfully performing their duties when they stopped the car in which M.W. was a passenger because it did not have a front license plate. (See Veh. Code, §§ 5200, 5201.) They were lawfully performing their duties when they ordered M.W. out of the car. (*Maryland v. Wilson* (1997) 519 U.S. 408, 414-415.) The officers were thus lawfully performing their duties when M.W. gave Officer Mascardo false names for himself and the driver.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED.

TANGEMAN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

Christopher J. Smith, Judge

Superior Court County of Los Angeles

---

Courtney M. Selan, 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, Michael C. Keller, Acting  
Supervising Deputy Attorney General, for Plaintiff and  
Respondent.