Filed 9/22/16 In re A.H. CA2/3

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re A.H., Persons Coming Under the Juvenile Court Law.	B265590
THE PEOPLE, Plaintiff and Respondent, v. A.H., Defendant and Appellant.	(Los Angeles County Super. Ct. No. YJ37832)

APPEAL from a judgment of the Superior Court of Los Angeles County, Irma J. Brown, Judge. Affirmed.

Courtney M. Selan, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Stephanie A. Miyoshi and David A. Voet, Deputies Attorneys General, for Plaintiff and Respondent.

INTRODUCTION

The juvenile court declared Defendant and Appellant A.H. a ward of the court after finding that she had aided and abetted a second degree robbery against a victim with a known disability. Defendant asserts that there is insufficient evidence to support the finding that she acted as an aider or abetter to the robbery. We affirm.

FACTS AND PROCEDURAL BACKGROUND

On April 24, 2015, at about 12:30 p.m., 78-year-old Lidia Vargaz was sitting on a bench at a bus stop in Inglewood, with her arm around the strap of her purse. A girl with a bag sat down next to her and two or three girls stood behind the bench. The girl sitting next to Vargaz asked her a question in English, but Vargaz did not know enough English to answer. After 10 to 20 minutes, a large hand reached from behind Vargaz and grabbed her purse. Vargaz tried to hold onto the purse, thinking it must be joke. When she realized what was happening, she released the purse because she was not strong enough to resist her assailant, and fell to the ground, frightened. The person who grabbed the purse and the girls took off running together. Vargaz called for help and told bystanders that her purse had been stolen. Several bystanders gave chase by foot and by car. Vargaz's purse was recovered along the route taken by the girls; $425 was missing from the purse. The girls were detained by the police several blocks from the crime scene. Based on Defendant's clothing and unique bag, witnesses identified her as one of the girls at the bus stop who ran away.

On April 28, 2015, the Los Angeles County District Attorney's Office filed a petition to adjudge Defendant a ward of the court pursuant to Welfare and Institutions Code section 602. The petition alleged that then-15-year-old Defendant aided and abetted the commission of second degree robbery against a victim with a known disability. (Pen. Code, §§ 211; 667.9, subd. (a).) Defendant denied the allegations. On June 25, 2015, the petition came on for adjudication and disposition, along with similar petitions filed against the two girls arrested with Defendant. The victim, eye witnesses, and police officers testified at the hearing. At the conclusion of the People's case, Defendant brought a motion to dismiss the petition for insufficient evidence pursuant to

Welfare and Institutions Code section 701.1. The court denied the motion, stating: "[T]he People have met the burden with regard to establishing that a crime was committed and likely that these minors were involved in the commission of the crime. The discrepancies in the witnesses' statements are not substantial in nature with regard to whether it was three or four or five or six [girls at the crime scene], and these incidents occur, everybody . . . tells and sees things differently. But they are consistent in that the three young ladies were running from the scene, someone else was running as well. We have the purse. [¶] The court believes that there's enough to go to the trier of fact, so the 701.1 motion is denied . . . ."

After entertaining argument by counsel, the court sustained the allegation that Defendant aided and abetted second degree robbery with the special allegation, and declared Defendant a ward of the court. The court explained, "it would seem to me that minimally . . . the minors are active participants as aiders and abettors since we're not clear as to who actually snatched the purse, whether it was one or more individuals. [¶] . . . I think it's fairly clear that [the girls] are acting together, they run together, they're apprehended together. . . . So the court believes that even though there may be other inferences that could be drawn from the testimony that the only logical and reasonable inference is that the three minors were involved in the robbery of Ms. Vargaz and I find the petition to be true and the special allegation as well." The court calculated the maximum period of confinement as seven years. Defendant was placed in the camp-community placement program and given 65 days of predisposition credit.

DISCUSSION

At issue is whether sufficient evidence supports the finding that Defendant aided and abetted the robbery. "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." (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 540.) "Substantial evidence is evidence that is reasonable, credible, and of solid value such that a reasonable trier of fact could

find the appellant guilty beyond a reasonable doubt. [Citation.] The test is not whether guilt is established beyond a reasonable doubt, but whether any 'rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.' [Citation.]" (*In re Chase C.* (2015) 243 Cal.App.4th 107, 113.) In doing so, we neither reweigh the evidence nor reevaluate the credibility of witnesses. (*People v. Lindberg* (2008) 45 Cal.4th 1, 27.) If the circumstances reasonably justify the trier of fact's findings, the opinion of the reviewing court that the circumstances might also reasonably be reconciled with a contrary finding does not warrant a reversal of the judgment. The conviction shall stand unless it appears that upon no hypothesis whatsoever is there sufficient substantial evidence to support the conviction. (*People v. Cravens* (2012) 53 Cal.4th 500, 508.)

"Robbery is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear." (Pen. Code, § 211.) An aider and abettor is a person who, "acting with (1) knowledge of the unlawful purpose of the perpetrator; and (2) the intent or purpose of committing, encouraging, or facilitating the commission of the offense, (3) by act or advice aids, promotes, encourages or instigates, the commission of the crime." (*People v. Beeman* (1984) 35 Cal.3d 547, 561.) Neither presence at the scene of a crime, nor failure to take steps to attempt to prevent a crime establishes that a person is an aider or abetter. (*Pinell v. Superior Court* (1965) 232 Cal.App.2d 284, 287.)

Here, substantial evidence supports the juvenile court's finding that Defendant aided and abetted the robbery. The victim testified that her purse was strapped around her arm and forcibly taken from her, knocking her to the ground and frightening her. These facts establish the elements of robbery.

Furthermore, the victim's testimony as well as the testimony of bystanders and police establish that Defendant aided and abetted in this robbery. Alvaro Espinoza testified that he was on a smoking break across the street from the bus stop when he noticed a group of people around Vargaz at the bus stop. He momentarily turned away and when he turned back, he saw Vargaz struggling to get up from the ground and the

girls running away. Espinoza drove around looking for the suspects who robbed Vargaz. Based on her dark clothing, Espinoza identified Defendant at trial as one of those people he saw fleeing from the bus stop, recalling as well that one of the girls (not Defendant) was wearing a yellow sweatshirt.

Alondra Becerra, her mother (Martina Isabel Becerra), and Martina's brother-in-law had just parked their car in front of their home when the robbery commenced. Becerra testified that she saw three girls running down the street. The victim, who was at the bus stop across the street and about 20 feet away from Becerra, yelled "help, they stole my purse" and pointed to the girls. Becerra called 911 and pursued the girls on foot. Becerra ended her chase when she saw one of the girls, who was wearing a yellow hoodie, apprehended by police a couple blocks away from the bus stop. Becerra testified that in addition to the girl in the yellow hoodie, one of the fleeing girls was wearing a beige knit sweater and the other was in all dark clothing. Becerra recovered Vargaz's purse along the route taken by the girls, and Vargaz confirmed that the recovered items were hers.

Martina Becerra also heard Vargaz yell for help and state that her purse was stolen, and saw Vargaz point to the girls running away. Martina watched the man and three girls running together, followed them in her car, and took photographs of them. She said the four ran together until they stopped and spoke to each other, at which point she took their picture. Then Martina saw them divide and run in different directions.

Vargaz testified that the girl next to her at the bus stop had a pretty black bag with an adornment on it. Vargaz stated that this girl appeared to be together with the other girls, and subsequently ran off with them following the robbery. Officer Rivers detained Defendant about two blocks from the bus stop where the robbery occurred and about two to three minutes after receiving a 911 call about the robbery. Rivers stated that Defendant was wearing a dark hooded sweatshirt and dark jeans, like the clothing described by Becerra. She was carrying a large black purse with a gold or yellow medallion on the front of it, like the bag described by Vargas.

Defendant argues that the evidence established that Defendant was "merely there" at the bus stop when someone reached over from behind and took Vargaz's purse, and that this is insufficient to establish aiding and abetting. We disagree.

The trial court reasonably inferred that Defendant knew of the plan to snatch the purse, intended to assist in commission of the robbery, and promoted or encouraged the robbery. Defendant appeared to be companions with the girls, as she was at the bus stop with them. Before the robbery, she positioned herself next to or behind Vargas. After the robbery, before Vargaz began to yell that she had been robbed, she ran away from the crime scene with the girls and the man. As described by witness Martina, the girls and Defendant ran away together and stopped together, momentarily speaking with each other before dividing and running in different directions, likely with the purpose of avoiding detection by the police. This brief consultation during their flight from the crime scene further evidences a common scheme to accomplish the robbery together.

The Court of Appeal addressed similar facts and argument in *In re Lynette G.* (1976) 54 Cal.App.3d 1087. There, a girl ran up to the victim, hit the victim in the head, and took the victim's purse. The victim saw three young girls huddled together about five feet away from the girl who struck her. (*Id*. at pp. 1090-1091.) All four girls ran away together. The assailant and one of the other girls struggled over the purse, but then threw it down as they were being chased. (*Id*. at p. 1091.) The girls were later apprehended by the police and identified by the victim as the same four girls involved in the robbery. On appeal, the defendant, who was one of the girls watching the attack and running away with the group, contended that the evidence was insufficient to show that she aided and abetted in the commission of the robbery. (*Id.* at pp. 1094-1095.) The court disagreed, stating, "[t]estimony by witnesses at the trial disclosed that [the defendant] was present at the scene of the crime and had fled with the perpetrator and two others after the crime had been committed and was still in their company shortly thereafter. Although flight, in and of itself, may be explained by a desire merely to disassociate oneself from an unexpected criminal activity, the trial court was not required to adopt that view; it could, reasonably, have concluded that had [the defendant]'s flight

been from fear of an unjustified charge of involvement, she also would have immediately disassociated herself from the other three girls." (*Id.* at p. 1095.) The appellate court concluded the trial court did not err in finding the defendant aided and abetted the robbery. (*Ibid.*)

Likewise, here, Defendant's flight and consultation with the girls after the robbery evidences her role as an aider and abetter. To the extent Defendant characterizes the evidence differently, Defendant essentially asks us to reweigh the evidence and to substitute her judgment for that of the trial court. This we do not do on appeal; we solely review the record for substantial evidence and resolve all conflicts and inferences in favor of the judgment. (*People v. Mitchell* (1986) 183 Cal.App.3d 325, 329 ["Whether defendant aided and abetted the crime is a question of fact, and on appeal all conflicts in the evidence and reasonable inferences must be resolved in favor of the judgment."].)

Based on the foregoing, we conclude that substantial evidence supports the trial court's finding that Defendant aided and abetted the robbery.

DISPOSITION

The judgment is affirmed.

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STRATTON, J.*

I concur:

EDMON, P.J.

LAVIN, J.

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