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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

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

2d Juv. No. B286291
(Super. Ct. No. YJ39228)
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

A.B.,

Defendant and Appellant.

A.B. appeals from the judgment entered after the juvenile court sustained a juvenile petition (Welf. & Inst. Code, § 602) for second degree robbery (Pen. Code, § 211)¹ and assault by means of force likely to produce great bodily injury (§ 245, subd. (a)(4)). After the trial court declared the offenses felonies and declared appellant a ward of the court, appellant was

¹ All further statutory references are to the Penal Code.

committed to the care, custody, and control of the probation department for suitable placement. Appellant contends that the evidence does not support the finding that she aided and abetted the assault and robbery or that a robbery even occurred. We affirm.

Facts

During the early morning hours on April 8, 2017, a group of teenagers beat Efren H. and took his wallet. Before the attack, Efren consumed five to 10 beers and ate at a McDonalds in Santa Monica. The group was also in McDonalds, in the company of appellant. Efren testified that appellant's "buddies asked her to come to me." Appellant approached and asked Efren for money. As Efren opened his wallet and gave her \$20, appellant commented that he had a lot of money.

Efren H. walked to Fourth Street to catch a bus and discovered the bus was not running. On the walk back, the group approached Efren, pointing and yelling that they would get him. Feeling afraid, Efren took off his belt and swung it at the ground to scare them off. The group attacked from behind, threw Efren to the ground, and punched and kicked him in the head and body. After the group fled, Efren discovered that his wallet, which had \$400, was missing from his back pocket.

Gerardo M. was across the street at the Wyndham Hotel and saw seven or eight "young guys" beat Efren. Two girls cheered the boys on, "telling them to keep on doing it." One girl, shouted, "Kick his ass, kick his ass!"

Gerardo M. yelled, "Hey, what are you guys doing?" As the group dispersed, one of the minors (John S.) kicked Efren in the neck, grabbed an object off the ground that appeared to be

a wallet, and ran off with the group. Gerardo heard the group scream, “Hell, yeah, we got it. Let’s run.”

The police detained the group at the Metro train platform two blocks away. Efren H. identified appellant and three males in a field show up. Efren’s wallet was in the trash can, next to where the group was detained. Appellant was standing closest to the trash can. Although the money was not recovered, the police found Efren’s ID and bank cards on John S.

Aider and Abettor Liability

Appellant argues that the evidence does not support the finding that she aided and abetted the robbery or assault. As in any sufficiency of the evidence appeal, we review the record in the light most favorable to the judgment and presume the existence of every fact the trier of fact could reasonably deduce from the evidence in support of the judgment. (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) The same standard of review applies to juvenile adjudications. (*In re Jesse L.* (1990) 221 Cal.App.3d 161, 165.) The testimony of a single witness is sufficient to support a conviction. (*People v. Ghobrial* (2018) 5 Cal.5th 250, 281.)

Robbery is the taking of personal property in the possession of another from his person or immediate presence, against his will, accomplished by means of force or fear. (§ 211; *People v. Bonner* (2000) 80 Cal.App.4th 759, 763.) A defendant who does not use force or fear in the initial taking of the property may nonetheless be guilty of robbery if he uses force or fear to retain the property or carry it away in the victim’s presence. (*People v. Estes* (1983) 147 Cal.App.3d 23, 27-28.) “The use of force or fear to escape or otherwise retain even temporary possession of the property constitutes robbery. [Citations.]”

(*People v. Flynn* (2000) 77 Cal.App.4th 766, 772.) For purposes of aider and abettor liability, the commission of a robbery continues until all the acts constituting the offense have ceased, which occurs when the stolen property is carried away to a place of temporary safety. (*People v. Cooper* (1991) 53 Cal.3d 1158, 1161.)

Substantial evidence supports the finding that appellant acted in concert with the group to assault and rob the victim. Appellant asked Efren H. for money and commented that he had a lot of money in his wallet. Efren was intoxicated and gave appellant \$20. Minutes later, the group confronted Efren, knocked him down, and beat and kicked him before taking the wallet.

Gerardo M. witnessed the attack and heard the group scream, “Hell, yeah, we got it. Let’s run.” That was the tell-all. The trial court found “this attack occurred because they were after the money. I think that’s the only reasonable inference that I can draw I don’t know for what other reason that’s been presented . . . why they would engage in him, or why he would feel he was threatened.”

Appellant argues that she was standing “on the sidelines” and did not intend to aid or abet the assault and robbery. Appellant’s act of cheering the boys on and flight with the group after a cohort took the wallet was strong circumstantial evidence. (*People v. Nguyen* (2015) 61 Cal.4th 1015, 1054.) But there was more. Appellant was a 13-year-old-teenager and approached Efren H. before the robbery, asking him for money. Appellant determined that Efren was alone and intoxicated, and commented that he had a lot of money on his person. Appellant also left with the group when it went outside, attacked Efren, and took his wallet. Appellant “may have committed no overt act

during the robbery but none was required. . . . [S]he was in the position of a lookout and though [s]he gave no warning none was required. [S]he was in [the] company of the other defendants before the crime was committed, remained with them during the robbery, [and] fled with them [to the train platform]. . . . That is sufficient to make [her] a participant in the crime.” (*People v. Ketchum* (1960) 185 Cal.App.2d 615, 619.)

“Among the factors which may be considered in determining aiding and abetting are: presence at the crime scene, companionship and conduct before and after the offense.” (*In re Juan G.* (2003) 112 Cal.App.4th 1, 5-6 [defendant and direct perpetrator approached victim together, direct perpetrator demanded money at knifepoint, and defendant fled with direct perpetrator]; *In re Lynette G.* (1976) 54 Cal.App.3d 1087, 1094.) All of those factors were present here. A trier of fact may infer knowledge and intent where the defendant continues to participate in the robbery after the property is taken. (See *Rosemond v. United States* (2014) 572 U.S. 65, 78, fn 9.)

Appellant argues that she was a 13-year-old girl out in the early morning and was in no position to disassociate herself from the group.² Appellant contends that Efren H. was too intoxicated to recall what happened, and that he flirted with appellant which angered the group and led to an assault but not

² Appellant argues that it is unclear whether she was present when Efren was beat and robbed. Not so. Efren testified that appellant was in the group when they approached him in the street. The officer who conducted the field show up confirmed that Efren identified appellant and three other minors at the train platform.

a robbery. The trial court rejected each of those scenarios and found no evidence of flirting. Although it was “troubled” about the amount of alcohol consumed, it credited Efren’s testimony and found “for the most part he’s pretty accurate.” Efren’s testimony was corroborated by Gerardo M. who witnessed the robbery and the officers who detained the group and recovered the wallet. It is not our function to reweigh the evidence, determine witness credibility, or resolve evidentiary conflicts. (*People v. Young* (2005) 34 Cal.4th 1149, 1181.) “The conviction shall stand ‘unless it appears “that upon no hypothesis whatever is there sufficient substantial evidence to support [the conviction].” [Citation.]” (*People v. Cravens* (2012) 53 Cal.4th 500, 508.)

Appellant argues that she did not strike Efren H. or take his wallet, but aiding and abetting applies to those who encourage another to commit a crime by words or gestures. Gerardo M. saw appellant cheer the boys on during the beating and said that appellant was “having fun.” It took no leap in logic for the trial court to find that appellant aided and abetted the robbery by asking Efren for money, commenting that he had a lot of cash in his wallet, cheering the males on as they beat Efren, and fleeing with the group after the wallet was taken. Ample evidence was presented that appellant acted with the intent or purpose of committing, encouraging, or facilitating that assault and robbery. (See, e.g., *People v. Daveggio and Michaud* (2018) 4 Cal.5th 790, 847.)

Actual Robbery

Appellant claims there was no robbery because John S. took the wallet after the group beat Efren H. and fled. Appellant opines that it was a simple theft but the evidence

shows that the beating and robbery were part of a continuous course of conduct. Gerardo M., the eyewitness, was asked:

“Did you hear any of the subjects say, ‘Niggas,’ when they were fleeing the s[cene]?”

A. Yes.

Q. What was that?

A. *They* just screamed, ‘Hell, yeah, *we got it*. Let’s run.” (Italics added.)

If it was a simple theft and the group had already fled, “they” would not have screamed “[W]e got it” and “Let’s run.” The trial court found the “attack occurred because they were after the money.” We reject the argument that robbery is divisible into a series of separate acts or the assault was completed before the wallet was taken. “[Appellant’s] guilt is not to be weighed at each step of the robbery as it unfolds.” (*People v. Gomez* (2008) 43 Cal.4th 249, 258.)

Disposition

The judgment (order committing appellant) is affirmed.

NOT TO BE PUBLISHED.

YEGAN, Acting P. J.

We concur:

PERREN, J.

TANGEMAN, J.

J. Christopher Smith, Judge

Superior Court County of Los Angeles

Mary Bernstein, under appointment by the Court of
Appeal for Defendant and Appellant.

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