Filed 11/7/18 In re Carlos S. CA2/7

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re CARLOS S., a Person Coming Under the Juvenile Court Law.	B282688 (Los Angeles County Super. Ct. No. TJ22696)
THE PEOPLE, Plaintiff and Respondent, v. CARLOS S., Defendant and Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Donna Quigley Groman, Judge. Affirmed in part, reversed in part, and remanded with directions.

Gerald Peters, 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, and Susan Sullivan Pithey and William H. Shin, Deputy Attorneys General, for Plaintiff and Respondent.

Carlos S. appeals from the juvenile court's order of wardship based on a sustained Welfare and Institutions Code[1] section 602 petition that alleged one count of felony vandalism (Pen. Code, § 594) with a gang enhancement (Pen. Code, § 186.22, subd. (d)). On appeal, Carlos challenges the sufficiency of the evidence supporting the juvenile court's true finding on the gang enhancement allegation, and its finding that the underlying offense caused $400 or more in damage, as required for a felony offense. Carlos also raises various claims about the People's alleged reliance on certain cost-averaging restitution provisions to prove that the vandalism was a felony. We conclude there was substantial evidence to support the gang enhancement finding, but not the felony vandalism finding. We accordingly reverse the juvenile court's order in part and remand the matter for further proceedings consistent with this opinion.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

I. Section 602 Petitions

On February 17, 2017, the Los Angeles County District Attorney's Office filed a petition pursuant to section 602 alleging that then 16-year-old Carlos committed one count of vandalism causing $400 or more in damage, a felony (Pen. Code, § 594, subd. (a)). It also was alleged that Carlos committed the offense for the benefit of, at the direction of, [or] in association with a criminal street gang, and with the specific intent to promote, further, and assist in criminal conduct by gang members (Pen. Code, § 186.22, subd. (d).) On March 3, 2017, the District Attorney's Office filed

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[1] Unless otherwise stated, all further statutory references are to the Welfare and Institutions Code.

a second petition alleging that Carlos committed one count of receiving stolen property exceeding $950 in value (Pen. Code, § 496, subd. (a)) and one count of grand theft of personal property (Pen. Code, § 487, subd. (a)).

Carlos subsequently admitted the allegations in the March 3, 2017 petition. The juvenile court sustained the receipt of stolen property count and dismissed the theft of personal property count pursuant to a settlement. Carlos denied the allegations in the February 17, 2017 petition, and the matter was set for an adjudication hearing.

II. Adjudication and Disposition Hearing

A contested adjudication hearing was held on April 18, 2018. The People called three witnesses to testify: (1) Joshua Bohnert, the officer who arrested Carlos; (2) Ky Truong, the Public Safety Manager for Carson, California; and (3) Scott Rodriguez, a gang expert. Carlos did not call any witnesses.

Los Angeles Sheriff's Deputy Joshua Bohnert testified that, on August 21, 2016, he was in the area of Anchor Avenue and Bay Court Street in Carson when he observed a large metal storage container spray-painted with black graffiti that stated "VCX3 SS TVS Chubbs." Deputy Bohnert believed the graffiti was recent because he patrolled the area on a daily basis and had not seen it previously. Based on his familiarity with gangs in the area, Deputy Bohnert knew "VCX3" stood for the Varrio Carson 13 gang, and "SS" stood for the Shearer Street clique of the gang. Members of the Shearer Street clique referred to themselves as "TVS" or "traviesos," which meant troublemakers in Spanish. Carlos was a self-admitted gang member who went by the moniker "Chubbs." Deputy Bohnert photographed and measured the graffiti, which was 39 square feet in size.

While investigating an unrelated incident, Deputy Bohnert reviewed Carlos's Facebook page. Carlos's profile stated that he lived in Carson and worked at "Shearer Street Gang." His public Facebook page included several photographs of Carlos with other Varrio Carson 13 members making gang signs.

On October 1, 2016, Deputy Bohnert detained Carlos in an alley less than a quarter mile from the location of the graffiti. After Carlos waived his *Miranda*[2] rights, Deputy Bohnert showed him a photograph of the graffiti. Carlos admitted the graffiti was his, and said he could not deny it because his name was on it. He also said he was drunk at the time. Carlos signed the photograph indicating he was responsible for the graffiti.

Ky Troung, the Public Safety Manager for Carson, testified that he was in charge of the City's graffiti restitution program. Because Carlos had spray-painted the graffiti on public property, the City was responsible for its removal. Troung prepared an estimate of the cost of removing the graffiti in this case. The City's practice was to apply a rate of $555.11 per hour for graffiti abatement, which was based on the average hourly wage of the administrative staff and crew involved in the removal process, and the cost of the equipment and supplies used in the process. Troung calculated the estimated cost of removing graffiti by using a formula that factored in this standard hourly rate and the actual dimensions of the graffiti being removed. In this case, Troung used the measurement of 39 square feet made by Deputy Bohnert. Based on the $555.11 hourly rate and the 39-square-foot measurement, Trough estimated the total cost of removing the graffiti spray-painted by Carlos was $1,850. Troung

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2 *Miranda v. Arizona* (1966) 384 U.S. 436.

explained, however, that the "actual work was double the size . . . of the damage itself" because the City would not simply repair the damaged portion, but rather would repaint the entire area to "restore the surface to the previous condition."

Troung acknowledged that the $555.11 hourly rate he used in making his damage estimate was not based on the actual cost of labor or equipment required in this case. The City also did not generate a separate invoice for the work performed in removing Carlos's graffiti. Troung explained that the City did not prepare individualized invoices for each instance of graffiti abatement because the administrative costs of doing so would be too burdensome and would make the program ineffective. However, the graffiti would have been removed within 24 hours of being reported to the City in accordance with its policy.

Los Angeles Sheriff's Detective Scott Rodriguez, the People's gang expert, testified that the Varrio Carson 13 gang was established in the 1960's and had about 150 members as of 2016. The gang's claimed territory was in the Carson area, and one method that it used to mark its territory was through gang graffiti. The vandalism in this case was committed in the gang's territory. The primary activities of the gang included vandalism, robberies, assaults, shootings, attempted murders, and murders. Detective Rodriguez had been involved in investigating crimes committed by members of the Varrio Carson 13 gang, including one gang member who was convicted of making criminal threats in November 2015, and another gang member who was convicted of robbery in July 2016.

Detective Rodriguez opined that Carlos was a member of the Varrio Carson 13 gang based on his contacts with him, the photographs depicting Carlos making gang signs with other gang

members, and the facts related to this case. Detective Rodriguez testified that he first met Carlos in January 2016. At that time, Carlos was wearing a black hat with the letter "C," which was an item commonly worn by members of the Varrio Carson 13 gang. While being detained by the detective, Carlos admitted he was a Carson 13 gang member known as "Chubbs."

When presented with a hypothetical based on the facts of this case, Detective Rodriguez opined that the vandalism would have been committed for the benefit of a criminal street gang. He explained: "It would benefit . . . both the individual and the gang. It shows a dedication to the gang by the individual. And it shows a marking of the area so people in that area know that area is controlled by Carson 13, and specifically there is a gang member named Chubbs that frequents that area. When people see the vandalism i[n] the area, they are going to try to avoid that area for fear of confrontation with the gang member, or . . . [i]f they see some kind of crime perpetrated by a gang member, they would be less likely to cooperate with law enforcement in the investigation or report the incident out of fear of retaliation by the gang or specifically that gang member."

At the conclusion of the hearing, the juvenile court sustained the section 602 petition. The court found that Carlos committed the offense of vandalism as charged in the petition, and that the offense was a felony based on the amount of damage caused. The court also found the gang enhancement allegation to be true. Turing to disposition, the court declared Carlos a ward of the court pursuant to section 602, and placed him at home on probation for a period of six months. Carlos filed a timely appeal.

DISCUSSION

On appeal, Carlos contends the juvenile court erred in sustaining the section 602 petition. Carlos specifically claims the evidence was insufficient to support a finding that he committed the vandalism offense charged in the petition with the specific intent to promote, further, or assist in criminal conduct by gang members. He also asserts the evidence was insufficient to prove that the vandalism caused $400 or more in damage as required for a felony, and argues the People improperly relied on cost-averaging restitution provisions to prove the amount of damage.

I. Standard of Review

"A juvenile court makes a jurisdictional finding under . . . section 602 based on the beyond a reasonable doubt standard." (*In re Gary H.* (2016) 244 Cal.App.4th 1463, 1477.) An appellate court reviews a minor's challenge to the sufficiency of the evidence supporting a jurisdictional finding under "the same standard applicable to adult criminal cases. [Citation.] 'In reviewing the sufficiency of the evidence, we must determine "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.]' [Citation.] '"[O]ur role on appeal is a limited one." [Citation.] Under the substantial evidence rule, we must presume in support of the judgment the existence of every fact that the trier of fact could reasonably have deduced from the evidence. [Citation.] Thus, 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 reversal of the judgment. [Citation.]' [Citation.]" (*In re V.V.* (2011) 51 Cal.4th 1020, 1026.)

II. The Evidence Was Sufficient to Support the Juvenile Court's Finding on the Gang Enhancement

To obtain a true finding on a gang enhancement allegation where the underlying charge is a public offense punishable as a felony or a misdemeanor, the People must prove the offense was "committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members . . . ." (Pen. Code, § 186.22, subd. (d).)[3] The gang enhancement thus applies "when a defendant has personally committed a gang-related felony with the specific intent to aid members of that gang." (*People v. Alibillar* (2010) 51 Cal.4th 47, 68.) To establish the elements of the enhancement, "the prosecution may . . . present expert testimony on criminal street gangs." (*People v. Hernandez* (2004) 33 Cal.4th 1040, 1047-1048.) "'Generally, an expert may render opinion testimony on the basis of facts given "in a hypothetical question that asks the expert to assume their truth." [Citation.] Such a hypothetical question must be rooted in facts shown by the evidence, however. [Citations.]'" (*People v. Ward* (2005) 36 Cal.4th 186, 209.) While a gang expert may not ordinarily testify whether the defendant committed a particular crime for the benefit of a gang or with the specific intent to facilitate criminal conduct by gang members, the expert "properly

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[3] Subdivision (b)(1) of the statute sets forth similar language where the underlying offense is a felony. (Pen. Code, § 186.22, subd. (b)(1).)

could . . . express an opinion, based on hypothetical questions that tracked the evidence, whether the [crime], if the jury found it in fact occurred, would have been for a gang purpose." (*People v. Vang* (2011) 52 Cal.4th 1038, 1048.)

Carlos argues that the evidence was insufficient to support the finding that he committed the vandalism with the specific intent to promote, further, or assist in any criminal conduct by gang members, as required under Penal Code section 186.22, subdivision (d). Citing *People v. Rodriguez* (2015) 55 Cal.4th 1125 (*Rodriguez*), Carlos specifically asserts that, because the evidence showed he acted alone in committing the offense, he could not have intended to facilitate criminal conduct by other members of his gang. This reliance on *Rodriguez* is misplaced.

The California Supreme Court in *Rodriguez* held that the substantive offense of active participation in a criminal street gang (Pen. Code, § 186.22, subd. (a)) may not be committed by a lone gang member. (*Rodriguez*, supra, 55 Cal.4th at p. 1132.) In so holding, the Court contrasted the statutory language and purpose of the substantive offense in subdivision (a) with that of the sentence enhancement in subdivision (b)(1). The Court explained: "Section 186.22(a) and section 186.22(b)(1) strike at different things. The enhancement under section 186.22(b)(1) punishes gang-related conduct, i.e. felonies committed with the specific intent to benefit, further, or promote the gang. [Citation.] . . . [W]ith section 186.22(a), the Legislature sought to punish gang members who acted in concert with other gang members in committing a felony regardless of whether such felony was gang related. [Citation.]" (*Id.* at p. 1138.) The Court also made clear that "[a] lone gang member who commits a felony . . . would not be protected from having that felony enhanced by section

186.22(b)(1), which applies to 'any person who is convicted of a felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members. . . .'" (*Id.* at pp. 1138-1139; see also *People v. Rios* (2013) 222 Cal.App.4th 542, 564 [Penal Code "section 186.22(b)(1) gang enhancement may be applied to a lone actor"].) Because subdivision (d) of the statute governing wobbler offenses contains the same elements as subdivision (b)(1) governing felonies, a gang member acting alone also may be subject to a sentence enhancement under Penal Code section 186.22, subdivision (d).

Carlos further contends that the gang enhancement was not supported by substantial evidence because the People's gang expert failed to provide an opinion as to Carlos's specific intent to promote, further, or assist other gang members. It is true that Detective Rodriguez was not asked to directly opine on whether the vandalism in this case would have been committed with the specific intent to facilitate criminal conduct by gang members. However, there was ample circumstantial evidence from which the juvenile court reasonably could have concluded that Carlos acted with the requisite specific intent. (See *People v. Rios*, *supra*, 222 Cal.App.4th at pp. 567-568 ["as to the specific intent prong" of the gang enhancement statute, "'[i]ntent is rarely susceptible of direct proof and usually must be inferred from the facts and circumstances surrounding the offense'"].)

Deputy Bohnert, the officer who arrested Carlos, testified that the graffiti found on the storage container was 39 square feet in size. It prominently displayed the acronyms "VCX3 SS TVS," which stood for Varrio Carson 13 (the name of a criminal street gang), Shearer Street (the name of a clique in the gang),

and "traviesos" or troublemakers (the nickname of the clique). These acronyms were followed by the name "Chubbs," which was Carlos's gang moniker. Carlos was a self-admitted member of the Carson 13 gang, and he had posted photographs of himself with fellow gang members making gang signs on his public Facebook page. Detective Rodriguez testified that the location of the graffiti was within the Carson 13 gang's territory, and that members of the gang often marked their territory with gang graffiti. He also opined that, by spray-painting "VCX3 SS TVS" on a large container, the perpetrator showed "a marking of the area so people in that area know [it] is controlled by Carson 13." In addition, Detective Rodriguez opined that the residents who saw the graffiti would be less likely to cooperate with law enforcement when a crime occurred "out of fear of retaliation by the gang or specifically that gang member."

Based on this evidence, the juvenile court reasonably could have inferred that Carlos spray-painted the graffiti to send a message to people living in the community that the area belonged to the Varrio Carson 13 gang, and that anyone cooperating with law enforcement in reporting gang-related crimes would be at risk of retaliation by Carlos or other Carson 13 gang members. The totality of the evidence was therefore sufficient to support the juvenile court's finding that Carlos committed the crime of vandalism with the specific intent to promote, further, or assist in criminal conduct by gang members.

III. The Evidence Was Insufficient to Support the Juvenile Court's Finding that the Vandalism was a Felony Offense

Penal Code section 594 makes it a crime for any person to maliciously damage, destroy, or deface with graffiti or other inscribed material any real or personal property that is not his or her own. (Pen. Code, § 594, subd. (a). The crime of vandalism may be punished as a felony, but only "[i]f the amount of defacement, damage, or destruction is four hundred dollars ($400) or more. . . ." (*Id*., subd. (b)(1).) Damage of less than $400 is punishable solely as a misdemeanor. (*Id*. subd. (b)(2).)

Penal Code section 594 does not itself specify a method for proving the amount of damage in a criminal prosecution for vandalism. In contrast, in the context of restitution proceedings involving juvenile offenders, "two statutory approaches expressly authorize restitution awards to government entities for a minor's act of graffiti." (*Luis M. v. Superior Court* (2014) 59 Cal.4th 300, 307.) First, section 730.6, subdivision (h) "authorizes full restitution for economic losses, including 'the actual cost of repairing [damaged] property when repair is possible.' [Citation.] Awards under section 730.6 are based on proof of the damage actually linked to the minor's conduct." (*Ibid*.) Second, section 742.14, through a graffiti removal and damage recovery program, "authorize[s] restitution 'based on the average costs for graffiti investigation and remediation per unit of measure,'" provided that the criteria set forth in the statute are satisfied.[4] (*Ibid*.)

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[4] Specifically, section 742.14 permits the adoption of a city or county ordinance authorizing a probation officer to recoup the costs of graffiti abatement through juvenile court proceedings. (§ 742.14, subd. (a).) The ordinance must include findings of

In *In Re Kyle T.* (2017) 9 Cal.App.5th 707 (*Kyle T.*), this Court considered the applicability of the statutory restitution methods to a juvenile court's finding that a vandalism offense committed by a minor was a felony based on the amount of damage caused. In that case, a section 602 petition was filed alleging that the minor committed felony vandalism by defacing two city-owned properties with graffiti. (*Id.* at p. 710.) At the adjudication hearing, a police officer testified that, based on a graffiti removal cost list provided by the city, the cost of removal for each incident of graffiti was $400. (*Id.* at pp. 710-711.) Based on the officer's testimony, the juvenile court sustained the felony vandalism count in the petition, finding that the minor had caused $400 or more in property damage. (*Id.* at p. 711.)

On appeal, this Court concluded that the evidence was insufficient to support the juvenile court's finding on the felony vandalism count because the People had failed to prove that the actual amount of damage caused by the minor reached the felony threshold of $400. (*Kyle T.*, *supra*, 9 Cal.App.5th at pp. 712-713.) The only evidence offered by the People to establish the amount

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"the average costs per unit of measure incurred by . . . law enforcement . . . in identifying and apprehending" violators of certain crimes. (§ 742.14, subd. (b).) Further, if the city or county has authorized the use of public funds for graffiti abatement, the ordinance must include findings of "the average cost . . . per unit of measure of removing graffiti and other inscribed material, and of repairing and replacing property of the types frequently defaced with graffiti . . . that cannot be removed cost effectively." (§ 742.14, subd. (c).) The cost findings "shall be reviewed at least once every three years, at which time the city [or] county …, by resolution, shall adopt updated cost findings in accordance with subdivisions (b) and (c)." (§ 742.14, subd. (a).)

of property damage was the police officer's testimony that the city used a flat rate of $400 per incident to estimate the cost of graffiti removal. (*Id*. at pp. 710-711.) Although the officer had visited the properties where the damage occurred and reviewed photographs of the minor's graffiti, his damage estimate was based exclusively on the city's one-page graffiti cost removal list. (*Id*. at p. 715.) As this Court observed, however, the city's list "is not an estimate of the actual cost to repair the damage that [the minor] caused. Rather, the list apparently sets forth a generic, one-size-fits-all removal cost of $400 for every incident of graffiti on [c]ity-owned property. From what [the officer] said, this mechanistic flat rate seems to control the [c]ity's damages calculation in all cases, regardless of the particulars of a given incident, such as the graffiti's dimensions, the type of material used in creating the graffiti, the nature of the surface on which the graffiti was written, and the method and manpower employed for cleaning up the graffiti. In short, the list reflects a generalized, non-case-specific damages estimate, not an estimate tethered to the facts of [the minor's] vandalism." (*Id*. at p. 714.)

In concluding that the juvenile court's felony vandalism finding was not supported by substantial evidence, this Court also considered whether the graffiti cost removal list on which the finding was based met the statutory criteria for averaging costs in a restitution case. (*Kyle T.*, *supra*, 9 Cal.App.5th at pp. 716-717.) At the outset, we observed that section 742.14 did not directly authorize the use of the cost-averaging method beyond the restitution context, and questioned whether the method could be applied constitutionally to the adjudication of a section 602 petition. (*Id*. at p. 717.) We noted that the standard of proof in restitution proceedings is less exacting than the

standard of proof in adjudication proceedings, and that a juvenile "who comes out on the wrong end of the adjudication of a . . . section 602 petition alleging vandalism" is not simply ordered to pay money, but "may be deprived of his liberty." (*Ibid.*) We concluded, however, that it was unnecessary to decide the constitutionality of using section 742.14's cost-averaging method to determine punishment because even if this method applied outside the restitution context, the city's graffiti removal list did not satisfy the statutory criteria. In particular, there was no evidence that the list was subject to a review by the city every three years, as required under section 742.14. (*Ibid.*) Accordingly, under both the "actual cost" method and the "average cost" method for determining restitution, the evidence did not support a finding that the minor had caused the amount of damage required to punish his vandalism as a felony rather than a misdemeanor. (*Id.* at 713.)

In this case, Carlos argues the evidence at his adjudication hearing was insufficient to support the juvenile court's finding that the vandalism offense was a felony because the People failed to present individualized proof that the actual amount of damage caused by Carlos's vandalism was at least $400. We agree. To prove that Carlos's vandalism caused $400 or more in property damage, the People offered the testimony of Troung, Carson's Public Safety Manager. Troung estimated that the total cost of removing the graffiti that Carlos had spray-painted on the City's metal storage container was $1,850. This estimate, however, was not based on the actual cost of repairing the damage caused by Carlos's graffiti. Rather, it was based on a formula that the City used for estimating the cost of graffiti removal. The formula took into account two figures: (1) a fixed hourly rate of $555.11 (which

reflected the average hourly wage of the City employees involved in the graffiti abatement process and the cost of the equipment and supplies used by the City in removing graffiti), and (2) the dimensions of the graffiti at issue in the case. The City's formula did not consider the type of material used in creating the graffiti, the nature of the surface on which the graffiti was written, or the method or manpower actually employed in removing the graffiti and repairing the property. The only case-specific fact that was included in the formula was the graffiti's dimensions.

Indeed, Troung admitted that his estimate of the damage caused by Carlos's vandalism was based on a "graffiti damage cheat sheet," and that the standard rate of $555.11 per hour that he used in the estimate had "no personal relation to Carlos [S.'s] alleged case." Troung also admitted that he was not personally involved in supervising the removal of Carlos's graffiti, and that the City did not prepare an invoice setting forth the actual cost of the removal. Troung believed that Carlos's graffiti was removed within 24 hours of the incident being reported because that was the City's standard practice for removing gang graffiti. However, Troung was unaware of any paperwork showing that the graffiti had in fact been removed. Because Troung's damage estimate bore only an attenuated correlation to the actual cost of removing the graffiti in this case, it was insufficient to support the juvenile court's finding that Carlos caused $400 or more in damage, and was thus subject to punishment for a felony vandalism offense.

Carlos also asserts that the People improperly relied on the cost-averaging restitution provisions of section 742.14 to prove the vandalism reached the $400 threshold for a felony offense. Carlos argues that such reliance was improper because there was no evidence that the City of Carson enacted an ordinance

complying with section 742.14, and even if the City did have such an ordinance, the cost-averaging method authorized by section 742.14 cannot be constitutionally applied to the adjudication of whether a juvenile committed felony vandalism. The Attorney General contends that Carlos forfeited any claim based on section 742.14 by failing to object in the juvenile court, and even if it was not forfeited, such claim lacks merit because neither the People nor the juvenile court relied on the provisions of section 742.14 to determine the amount of damage caused by Carlos's graffiti.

The Attorney General is incorrect on this issue. The record reflects that, following Troung's testimony, Carlos's attorney moved to strike the testimony on the ground Troung had no personal knowledge about the actual cost of removing the graffiti in this case, and instead used a "generic formula" that applied a "one size fit[s] all" approach to estimating the cost. The juvenile court denied the motion to strike on the ground that Troung's estimate was "authorized" by section 742.14.

As in *Kyle T.*, however, we need not decide whether the cost-averaging method of section 742.14 may be applied outside the restitution context to an adjudication of a section 602 petition. In this case, there was no evidence that the City of Carson adopted an ordinance authorizing a probation officer to recoup the costs of graffiti abatement through juvenile court proceedings, or complied with any of the other criteria required by section 742.14. Hence, even if section 742.14's cost-averaging method could be applied in an adjudication proceeding, the juvenile court did not have a proper basis for relying on that method to determine the amount of damage caused by Carlos's graffiti. (*Kyle T.*, *supra*, 9 Cal.App.5th at p. 717 [city's graffiti cost removal list could not support felony vandalism finding in

adjudication proceeding where list failed to satisfy criteria of section 742.14]; see also *Luis M. v. Superior Court*, *supra*, 59 Cal.4th at p. 308 [in restitution proceeding, city's failure to adopt an ordinance in accordance with section 742.14 made its "cost model unavailable as a basis for determining restitution"].)

Because the People failed to prove that the vandalism committed by Carlos caused $400 or more in property damage, the juvenile court's finding that the vandalism was a felony offense was not supported by substantial evidence.

DISPOSITION

The adjudication order is reversed in part, and the matter remanded to the juvenile court for resentencing. In all other respects, the adjudication order is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

FEUER, J.