Filed 1/27/26 In re K.M. CA5

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

In re K.M., a Person Coming Under the Juvenile Court Law.	
THE PEOPLE, Plaintiff and Respondent, v. K.M., Defendant and Appellant.	F089246 (Super. Ct. No. JJD074453) **OPINION**

THE COURT[*]

APPEAL from a judgment of the Superior Court of Tulare County. Sara D. Bratsch, Judge.

Candice L. Christensen, under appointment by the Court of Appeal, for Defendant and Appellant.

Rob Bonta, Attorney General, Charles C. Ragland, Chief Assistant Attorney General, Kimberley A. Donohue, Assistant Attorney General, Ivan P. Marrs and Angelo S. Edralin, Deputy Attorneys General, for Plaintiff and Respondent.

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[*] Before Franson, Acting P. J., Snauffer, J. and De Santos, J.

Minor K.M. contends on appeal that the juvenile court's findings must be reversed and the matter remanded because (1) there is insufficient evidence that minor committed assault by means of force likely to produce great bodily injury because he acted under duress; and (2) the court abused its discretion when it denied minor's request to reduce his assault by means of force likely to produce great bodily injury offense from a felony to a misdemeanor. The People disagree. We affirm.

PROCEDURAL SUMMARY

On October 31, 2024, a third subsequent juvenile wardship petition was filed in the Tulare County Superior Court, pursuant to Welfare and Institutions Code[1] section 602, alleging minor committed assault by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4); count 1).[2]

On November 1, 2024, the juvenile court held a detention hearing. Minor denied the allegations.

On December 18, 2024, the juvenile court held a jurisdiction hearing. Pursuant to Penal Code section 17, subdivision (b), defense counsel requested count 1 be reduced to a misdemeanor. The court denied defense counsel's request. The court found the allegations of the petition true. The court also found the October 30, 2024 violation of probation true.

On January 8, 2025, the juvenile court held a disposition hearing. Defense counsel requested minor be placed on probation at home in the custody of his mother. The court

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[1] All statutory references are to the Welfare and Institutions Code unless otherwise noted.

[2] On October 30, 2024, the Tulare County Probation Department also filed a notice that minor violated probation pursuant to section 777, subdivision (a). The probation violation alleged minor had nine incident reports in juvenile hall, including physical altercations, failure to follow instructions, and writing an inappropriate letter to staff.

committed minor to the short-term program for 180 days, with 163 days of custody credit.

On January 27, 2025, minor filed a timely notice of appeal.

FACTS[3]

On September 22, 2024, at 11:45 a.m., minor was in the recreation yard at juvenile hall with other juveniles. Tulare County Deputy Probation Officer Eugenio Avila was supervising the yard when he saw minor and another juvenile "punching and kicking [A.G.] who was already in the covered position." Avila testified that when he saw that, "I … called out 'attention.' I called out 'cover' in the rec[reation] yard where I was assigned to. And with that … other responding officers showed up to the … rec[reation] yard at the same time." A surveillance video of the incident was played for the court and was entered into evidence as Exhibit 1. Avila identified minor as one of the juveniles fighting in the video. He testified, "you could see that [minor] was using force by kicking and punching [A.G.]"

Tulare County Deputy Probation Officer Steven Tafoya wrote a report about the incident but did not witness it. Tafoya testified that the video of the incident showed minor punching A.G. approximately four times and kicking A.G. approximately six times. He stated the video showed minor's kicks appeared to be "full kicks," and "[y]ou could see that [minor] was going full force punches, from my observation [of the video]." Tafoya testified that the incident was "an unprovoked attack, so getting [A.G.] to the ground was [minor and the other juvenile's] goal." He testified the video showed minor was punching and kicking A.G. near his head and upper body area.

After the incident, A.G. had visible swelling on his left cheek and a cut to his right forehead.

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[3] Only the facts underlying the October 31, 2024 juvenile wardship petition are relevant to minor's appeal. Accordingly, we have omitted the facts underlying minor's other prior juvenile wardship petitions and probation violations.

Defense

Avila testified that he did not know whether minor was threatened by other juveniles before he participated in the attack on A.G. or whether "words [were] exchanged" between the parties to the attack before it began.

Minor testified that he did not want to fight A.G., but that approximately four older juveniles "told me to do it so I don't get my food taken away. But they still took it," and "[t]hey told me that they were going to jump me." Minor stated he believed them because they had taken his food and assaulted him on two previous occasions. He stated he was not physically attacked that day, but "they were taking my food and … slapping me and stuff." He stated he did not have time to tell the probation officers about the threats before the attack but told them afterward. He testified he struck A.G. "[d]own by his legs and sides," not in the face, and stated he did not hit him hard, kicking him approximately four times and punching him approximately five times.

Tafoya testified that minor told him after the attack that he was "coerced" to participate, which Tafoya stated "usually" meant "that [the other juveniles] will take their food," but minor did not tell him who coerced him to attack A.G. He stated that, based on his experience in juvenile hall, "coercion" meant a threat by other juveniles to take food from and physically harm other juveniles who did not comply with their commands. He testified that minors subject to these types of threats fear for their own safety and usually do not tell the probation officers about them. He testified that he was not aware of any threats made to minor, but stated, "threats are made, but they are never acted upon."

DISCUSSION

I. Defense of Duress

Minor contends there is insufficient evidence to support the juvenile court's finding that he was not acting under duress when he committed assault by means of force likely to produce great bodily injury. He further argues that because the United States

Constitution prohibits conviction of a criminal offense on less than proof beyond a reasonable doubt, the true finding on count 1 violates federal due process guarantees. (U.S. Const., 14th amend.; *Jackson v. Virginia* (1979) 443 U.S. 307.) The People disagree. We agree with the People.

A. Background

On January 3, 2025, the probation department filed a report. It recommended the court recommit minor to the short-term program for 180 days, with an emphasis on mental health services.

At the December 18, 2024 jurisdiction hearing, defense counsel argued minor acted under duress when he participated in the attack on A.G., because minor believed the threat of harm to him by the other juveniles was immediate, as the other juveniles who threatened him were in the recreation yard with him at the time and they had carried out threats against him on prior occasions. He requested count 1 be reduced to a misdemeanor because A.G. did not suffer significant bodily injury.

The prosecution argued the attack was "uncalled for," and that A.G. did not present a threat to minor, because A.G. had already been punched and kicked to the ground by the other juvenile involved in the attack.

The court denied defense counsel's request. It found count 1 true, stating,

> "Now, turning to whether or not [minor], who produced an affirmative defense to the charges, the affirmative defense appears to be the defense of coercion. Duress. That he had no choice but to act in the assault that was preplanned and with [R.], because he feared for his safety. [¶] Again, the California Criminal Jury Instruction was read here in court, and the Court notes that the minor has to be in such imminent fear for the safety of his life. That he has no choice but to act. [¶] There's [in]sufficient evidence to show that [minor] was in imminent fear for his life. Taking food from a minor and being the victim of minor [assaults] do not rise to the level of [the] affirmative defense of duress or coercion; therefore, the Court finds and sustains the petition."

B. Law

Penal Code section 245, subdivision (a)(4) provides in pertinent part, "Any person who commits an assault upon the person of another by any means of force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both the fine and imprisonment.."

Penal Code section 26 provides in pertinent part: "All persons are capable of committing crimes except those … who committed the act or made the omission charged under threats or menaces sufficient to show that they had reasonable cause to and did believe their lives would be endangered if they refused." The defense of duress is available to defendants who commit crimes, except murder, "under threats or menaces sufficient to show that they had reasonable cause to and did believe their lives would be endangered if they refused." (*Ibid*.; see *People v. Anderson* (2002) 28 Cal.4th 767, 780.) "The defense of duress, unlike the necessity justification, requires that the threat or menace be accompanied by a direct or implied demand that the defendant commit the criminal act charged." (*People v. Steele* (1988) 206 Cal.App.3d 703, 706 [duress not available as a defense when inmate escaped in response to threats of bodily injury because persons making threats did not demand that defendant escape].) "Duress is an effective defense only when the actor responds to an immediate and imminent danger. '[A] fear of *future* harm to one's life does not relieve one of responsibility for the crimes he commits.' (Citations.) The person being threatened has no time to formulate what is a reasonable and viable course of conduct nor to formulate criminal intent. 'The unlawful acts of the person under duress are attributed to the coercing party who supplies the requisite mens rea ….' (Citation.) Thus, duress negates an element of the crime charged—the intent or capacity to commit the crime—and the defendant need raise only a reasonable doubt that he acted in the exercise of his free will." (*People v. Heath* (1989) 207 Cal.App.3d 892, 900.) The prosecution bears the burden of proving beyond a

reasonable doubt that the defendant had the requisite intent and did not act under duress. (CALCRIM No. 3402.)

We review the minor's contentions using the same standard of review that applies in adult criminal cases. (*In re V.V.* (2011) 51 Cal.4th 1020, 1026.) "Specifically, we determine whether substantial evidence—'evidence that is reasonable, credible, and of solid value'—supports the juvenile court's findings. [Citation.] We view the evidence 'in the light most favorable to the prosecution and presume in support of the [findings] the existence of every fact the [court] could reasonably have deduced from the evidence.' [Citation.] We 'accept [all] logical inferences that the [court] might have drawn from the … evidence' [citation], but reject inferences ' "based on suspicion alone, or on imagination, speculation, supposition, surmise, conjecture, or guess work." ' " (*In re I.A.* (2020) 48 Cal.App.5th 767, 778 (*I.A.*).) This is true for both direct and circumstantial evidence. (*People v. Thompson* (2010) 49 Cal.4th 79, 113.)

"Resolution of conflicts and inconsistencies in the testimony is the exclusive province of the trier of fact." (*People v. Young* (2005) 34 Cal.4th 1149, 1181.) "The focus of the substantial evidence test is on the *whole* record of evidence presented to the trier of fact, rather than on ' "isolated bits of evidence." ' " (*People v. Cuevas* (1995) 12 Cal.4th 252, 261.) "Moreover, unless the testimony is physically impossible or inherently improbable, testimony of a single witness is sufficient to support a conviction." (*People v. Young*, at p. 1181.)

If "the circumstances reasonably justify the findings made by the trier of fact, reversal of the judgment is not warranted simply because the circumstances might also reasonably be reconciled with a contrary finding." (*People v. Jennings* (2010) 50 Cal.4th 616, 639.) "We will reverse only if ' "it appears 'that upon no hypothesis whatever is there sufficient substantial evidence to support' " the [court's findings].' " (*I.A.*, *supra*, 48 Cal.App.5th at p. 778.) "The appellate court presumes in support of the judgment the

existence of every fact the trier could reasonably deduce from the evidence." (*People v. Kraft* (2000) 23 Cal.4th 978, 1053.)

C. Analysis

Here, substantial evidence supports the juvenile court's finding that minor was not under duress when he committed assault by means of force likely to produce great bodily injury.

Minor argues the court did not properly take into account his claim that he attacked A.G. under duress from threats by other juveniles to take his food and assault him if he did not comply with the demands that he participate.

The People argue minor's claim did not amount to an effective defense of duress because the only evidence of duress minor presented was his own testimony, in which he stated four older juveniles in his "pod" threatened to assault him and take away his food if he did not comply with their demands that he attack A.G., and that this testimony did not show these threats put minor's life in danger or that they were immediate.

Here, minor testified that he did not want to fight A.G., but that four older juveniles told him to attack A.G., slapping him and threatening to take away his food if he did not comply with their commands. Minor stated he believed the other juveniles would follow through on their threats against him, because they had taken his food before and had assaulted him on two previous occasions.

The court found minor did not act under duress, stating, "[T]he Court notes that the minor has to be in such imminent fear for the safety of his life. That he has no choice but to act.… There's [in]sufficient evidence to show that [minor] was in imminent fear for his life. Taking food from minor and being the victim of minor [assaults] do not rise to the level of duress or coercion; therefore, the Court finds and sustains the petition."

Pursuant to Penal Code section 26, the defense of duress is available to defendants who commit crimes, except murder, under threats of immediate or imminent danger "sufficient to show that they had reasonable cause to and did believe their lives would be

endangered if they refused" to commit the crimes at issue. (Pen. Code, § 26; see *People v. Anderson*, *supra*, 28 Cal.4th at p. 780; see also *People v. Heath, supra*, 207 Cal.App.3d at p. 900.)

Here, minor's own testimony shows he did not believe or have reasonable cause to believe his life was endangered if he refused to commit the assault, or that the danger from the other juveniles was immediate, as he testified that they threatened to assault him and take his food away later, but not to endanger his life.

Accordingly, as we "presume[ ] in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence," we conclude sufficient evidence supports the court's finding that minor did not act under duress when he assaulted A.G.[4] (See *People v. Kraft*, *supra*, 23 Cal.4th at p. 1053.)

II. Denial of Minor's Motion to Reduce Conviction to Misdemeanor

Minor next contends the juvenile court abused its discretion when it denied his request to reduce his conviction for assault by means of force likely to produce great bodily injury (count 1) from a felony to a misdemeanor. Minor further argues the court's ruling deprived him of his fundamental due process right to the rational exercise of informed sentencing discretion. (U.S. Const., 14th amend; *United States v. Tucker* (1972) 404 U.S. 443, 447; *People v. Belmontes* (1983) 34 Cal.3d 335, 348, fn. 8.)

A. Background

During the jurisdiction hearing, defense counsel made an oral motion to the juvenile court to reduce count 1 from a felony to a misdemeanor. The court denied the motion, stating,

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[4] As the juvenile court did not abuse its discretion when it found minor was not under duress when he committed the offense of assault by force likely to cause great bodily injury, we conclude minor's right to due process was also not violated.

"[T]here does not need to be an injury; however, if there is injury, the Court can take into consideration whether or not the result would likely produce great bodily injury.

"Based on the testimony from Officer Avila, and the video the Court personally observed, what appears to be another minor with the last name [R.], [R.] throwing the first punch then [minor] was directly behind [R.] who followed immediately in. And the Court noted that the victim was forced to the ground, and there was, what was referred to as, [an] attack in concert.

"This appears to be a preplanned attack and collaborated to be an assault. There was no sign that the victim was the aggressor. In fact, when everyone was ordered to take cover, the minors continued their assaulting behavior to the victim who was on the ground in a vulnerable position.

"Although this minor did not act alone, there was four legs, four arms continuously [beating] the victim; and the fact that the victim had injuries to his face, it is not clear as to who caused the injury. Both minors are liable for the assault in concert.

"The Court does find that the People have proven beyond a reasonable doubt, count one, that … minor acted in concert by assaulting the victim by force likely to produce great-bodily injury based on the kicking and punching to the upper vulnerable portion of the victim's body."

B. Law

Penal Code section 245, subdivision (a)(4) states, "Any person who commits an assault upon the person of another by any means of force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both the fine and imprisonment." (Pen. Code, § 245, subd. (a)(4).) Pursuant to Penal Code section 17, subdivision (b), offenses under Penal Code section 245, subdivision (a)(4) are "wobblers." (*People v. Feyrer* (2010) 48 Cal.4th 426, 439–440, fn. 8, superseded by statute on another ground as stated in *People v. Park* (2013) 56 Cal.4th 782, 789–790.) Wobblers are crimes that are by statute "punishable as either a felony or a misdemeanor; that is, they are punishable either by a term in state

prison or by imprisonment in county jail and/or by a fine." (*People v. Park*, at p. 789; see *People v. Superior Court* (*Alvarez*) (1997) 14 Cal.4th 968, 974 (*Alvarez*).) The decision of whether to reduce a wobbler under Penal Code section 17, subdivision (b), is "solely 'in the discretion of the court.' " (*Alvarez*, at p. 977.)

The trial court's decision whether to reduce to a misdemeanor an offense that was charged as a felony is reviewed for abuse of discretion. (*Alvarez*, *supra*, 14 Cal.4th at p. 981.) The reduction of a wobbler offense by a trial court to a misdemeanor under Penal Code section 17 is an act of leniency to which a convicted defendant is not entitled as a matter of right. (*People v. Tran* (2015) 242 Cal.App.4th 877, 892.) " '[A] decision will not be reversed merely because reasonable people might disagree. "An appellate tribunal is neither authorized nor warranted in substituting its judgment for the judgment of the trial judge." ' " (*Alvarez*, at p. 978.) Because a trial court has broad discretion when deciding to reduce a wobbler offense, the trial court's decision will not be disturbed on appeal unless it is clearly shown to be irrational or arbitrary. (*Tran*, at p. 887.) "Absent such a showing, we presume the court acted to achieve legitimate sentencing objectives." (*Ibid*.) "The [trial] court is presumed to have considered all of the relevant factors in the absence of an affirmative record to the contrary." (*People v. Myers* (1999) 69 Cal.App.4th 305, 310.) Factors relevant to the trial court's exercise of sentencing discretion include, " 'the nature and circumstances of the offense, the defendant's appreciation of and attitude toward the offense, or his traits of character as evidenced by his behavior and demeanor at the trial.' " (*Alvarez*, at p. 978.)

C. Analysis

Here, the record shows the trial court's decision to deny minor's motion to reduce count 1 from a felony to a misdemeanor was not an abuse of discretion, as it was neither arbitrary nor irrational.

During the disposition hearing, the juvenile court stated it was sentencing minor to a felony conviction on count 1 for assault by means of force likely to cause great bodily

injury because he and another juvenile committed an unprovoked attack on A.G., hitting and kicking him in the upper body region even when he was already on the ground. The court noted, "[t]here does not need to be an injury; however, if there is injury, the Court can take into consideration whether or not the result would likely produce great bodily injury.… And the Court noted that the victim was forced to the ground, and there was, what was referred to as, [an] attack in concert… Although this minor did not act alone, there was four legs, four arms continuously [beating] the victim; and the fact that the victim had injuries to his face."

Minor argues that the juvenile court should have granted minor's request to reduce count 1 from a felony to a misdemeanor because minor's assault did not cause great bodily injury to A.G., as there was no evidence of pain, wound care, emergency treatment, or residual aftereffects.

However, proof of injury is not necessary for a conviction pursuant to Penal Code section 245, subdivision (a)(4) for assault by means likely to produce great bodily injury. As the court noted, the evidence showed minor punched and kicked A.G. in the upper part of his body multiple times with force while A.G. was on the ground. Accordingly, the record supports the court's reasonable inference that even despite the lack of evidence of great bodily injury to A.G. resulting from the attack, the force used by minor could have produced great bodily injury.

Minor further argues that minor's "personal characteristics and attitude towards the offense demonstrated that he was worthy of receiving a reduction of the wobbler under Penal Code section 17, subdivision (b)." Minor argues he was only 14 years old at disposition, was "doing very well," following the rules and consistently appearing in a " 'purple shirt,' " compliant with medication, and remorseful for his actions.

Here, however, the record shows the juvenile court considered the relevant factors, including, " 'the nature and circumstances of the offense, the defendant's appreciation of and attitude toward the offense, or his traits of character as evidenced by his behavior and

demeanor at the trial.' " (*Alvarez*, *supra*, 14 Cal.4th at p. 978.) The court stated it was aware minor was remorseful for his conduct. However, the court also stated regarding the nature and circumstances of the offense that the evidence showed minor and the other juvenile's attack on A.G. was unprovoked, and that they continued to kick and punch him in the vulnerable upper part of his body even after he was on the ground, using force likely to produce great bodily injury. (See *ibid.*)

Accordingly, as the juvenile court is "presumed to have considered all of the relevant factors in the absence of an affirmative record to the contrary" (*People v. Myers*, *supra*, 69 Cal.App.4th at p. 310), we conclude the juvenile court's denial of minor's motion to reduce count 1 from a felony to a misdemeanor is neither irrational nor arbitrary (see *People v. Tran*, *supra*, 242 Cal.App.4th at p. 887).[5]

Minor further contends the juvenile court's error was not harmless beyond a reasonable doubt, pursuant to *Chapman v. California* (1967) 386 U.S. 18, 23–24, as it was unnecessarily punitive. However, even if the court had erred by denying minor's motion to reduce count 1 from a felony to a misdemeanor, any error was harmless beyond a reasonable doubt, as the ample evidence showing the nature of minor's offense would render any such error harmless. (*Chapman*, *supra*, at p. 24 [federal constitutional error is reversible unless it was harmless beyond a reasonable doubt].)

DISPOSITION

The disposition order is affirmed.

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[5] As the juvenile court did not abuse its discretion when it denied minor's motion to reduce the offense of assault by force likely to cause great bodily injury from a felony to a misdemeanor, we conclude minor's right to due process was also not violated.