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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

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

THE PEOPLE,

Plaintiff and Respondent,

v.

D.B.,

Defendant and Appellant.

A128185

(Solano County  
Super. Ct. No. J38962)

The juvenile court found that D.B. (appellant) committed second degree robbery. Appellant contends the court's finding is not supported by substantial evidence. We disagree and affirm.

BACKGROUND

On February 22, 2010, a Welfare and Institutions Code section 602, subdivision (a) petition was filed in Solano County Juvenile Court, charging appellant, born in March 1993, with second degree robbery (Pen. Code, § 211).<sup>1</sup> The petition alleged that the robbery was a serious and violent felony (§§ 1192.7, subd. (c) & 667.5, subd. (c)).

At a March 2010 contested jurisdictional hearing, the prosecution presented evidence from the juvenile victim (Martin S.), a juvenile witness (K. M.), and a police

<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

officer. Martin and K. M. testified that on February 20, 2010, they were skating at a park in Vallejo when they were approached by a group of six or seven males. Both Martin and K. M. identified appellant in court and testified that he was one of the group. One of the group (not appellant) asked Martin “[W]hat are you slapping?” Martin understood that to ask what he was listening to. Martin testified that two of the group, then the whole group, started “jumping on” him. K. M. testified that the whole group started hitting and pushing Martin. The two assailants who first attacked Martin (neither of whom was appellant) reached into Martin’s pockets and took his phone and iPod.

Both Martin and K. M. testified that, when Martin tried to get away, appellant tackled him to the ground, which allowed the other assailants to “pile[] up on [Martin] again.” K. M. testified that appellant emptied Martin’s backpack, which was on the ground, and took Martin’s camera.

A Vallejo police officer testified that when she interviewed K. M. he could not tell her which of the assailants took which items.

At the close of the hearing, the juvenile court found the robbery charge true beyond a reasonable doubt. At the April 2010 dispositional hearing, the court continued appellant as a ward of the court, granted probation, and placed him at New Foundations. The court ruled that his maximum period of confinement is five years, ten months.

#### DISCUSSION

Appellant contends there is insufficient evidence he committed robbery because the “evidence fails to establish [he] used force or fear to accomplish a taking from Martin.”

“In assessing a claim of insufficiency of evidence, the reviewing court’s task is to review the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence—that is, evidence that is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.]” (*People v. Rodriguez* (1999) 20 Cal.4th 1, 11.) The same standard of review applies in appeals in juvenile proceedings. (*In re Babak S.* (1993) 18 Cal.App.4th 1077, 1089.) “ ‘We must presume in support of the judgment the existence

of every fact the trier of fact could reasonably deduce from the evidence [citation] and we must make all reasonable inferences that support the finding of the juvenile court.

[Citation.]’ [Citations.]” (*Ibid.*)

Appellant argues the evidence might have supported a finding that he committed a theft, but not a robbery. Section 211 defines robbery as “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.” “To elevate larceny to robbery, the taking must be accomplished by force or fear and the property must be taken from the victim or in his presence.” (*People v. Gomez* (2008) 43 Cal.4th 249, 254, fn. omitted.) In *Gomez*, the Court addressed the “temporal point at which the elements must come together.” (*Gomez*, at p. 254.) Reviewing “decades of California jurisprudence,” the Court explained that “[t]he answer lies in the fact that robbery, like larceny, is a continuing offense. All the elements must be satisfied before the crime is completed. [Fn.] However, . . . no artificial parsing is required as to the precise moment or order in which the elements are satisfied.” (*Ibid.*) If the use of force or fear and a taking from the victim’s presence “are in play at any time during the period from caption through asportation, the defendant has engaged in conduct that elevates the crime from simple larceny to robbery.” (*Id.* at p. 258.)

In the present case, substantial evidence supports the juvenile court’s robbery finding under at least two theories. First, the court could have concluded appellant employed force in the taking of Martin’s iPod and phone, because there was testimony that *all* of the assailants attacked the victim, after the initial attack by two of the assailants.<sup>2</sup> Second, the court could have concluded that appellant’s participation in the initial assault and/or his conduct in tackling Martin to the ground were a means of accomplishing the taking of Martin’s camera from his backpack. The trial court could reasonably infer that appellant’s use of force either provided appellant an opportunity to search the backpack or caused Martin to abandon the backpack.

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<sup>2</sup> There was substantial evidence that appellant was an aider and abettor in the taking of the iPod and phone. (See *People v. Cooper* (1991) 53 Cal.3d 1158, 1164.)

The juvenile court's finding on the robbery charge is supported by substantial evidence.

DISPOSITION

The juvenile court's orders are affirmed.

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SIMONS, J.

We concur:

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JONES, P. J.

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BRUINIERS, J