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

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

THE PEOPLE,

Plaintiff and Respondent,

v.

J. B.,

Defendant and Appellant.

A107747

(Solano County
Super. Ct. No. J34494)

J. B., a minor, appeals after the juvenile court sustained an allegation that he had received a stolen vehicle (Pen. Code, § 496d, subd. (a)). He contends there was no substantial evidence supporting the finding. He also contends the juvenile court erred in calculating the maximum period of confinement. We order the dispositional order amended to reflect a maximum period of confinement of three years. As amended, we affirm the judgment.

I. BACKGROUND

J. B. was charged by supplemental petition on July 8, 2004, with one count of unlawful driving or taking of a vehicle (Veh. Code, § 10851, subd. (a)) and one count of felony receiving a stolen vehicle (Pen. Code, § 496d, subd. (a)).

A contested jurisdictional hearing took place on July 28, 2004. The evidence showed that Mariano Alcares's white 1988 Toyota Camry was taken without his consent.

It was reported missing on July 6, 2004. Around 2:00 p.m. on July 7, 2004, Vallejo Police Officer Gordon Moore observed the missing car while on patrol. Officer Moore was riding a marked motorcycle and was in uniform. There were four male youths inside the Toyota. As the car turned onto Del Mar Avenue, from North Camino Alto, the two youths in the back seat turned around to look at the officer through the back glass.

Officer Moore followed the car, also turning onto Del Mar Avenue. No cars came between him and the Toyota. The driver immediately pulled over to the curb on his own accord, without any action by the officer. All four passengers quickly exited the car and walked down Del Mar Avenue in the officer's direction.

J. B. was 15 years old at the time. He did not have a driver's license. Another juvenile, who exited the car from the front passenger side, told Officer Moore that he had been driving the car. However, Officer Moore testified he observed that J. B. was the driver.

Officer Moore found in the ignition a silver key that was unlike an ordinary automobile key because it was only about an inch and a half long. The key could turn the engine on and off. The steering wheel shaft was not broken, and there was no damage to the interior of the car.

J. B. and a passenger in the car were tried as codefendants. At the close of the hearing, the juvenile court dismissed count one. (Veh. Code, § 10851, subd. (a).) The court found true the allegation that J. B. had received stolen property. (Pen. Code, § 496d, subd. (a).) J. B. was continued as a ward of the court in the custody of his mother, and the maximum period of confinement was set at four years.

II. DISCUSSION

A. Substantial Evidence Supports the Finding of Possession of a Stolen Vehicle

J. B. first argues that there is no substantial evidence to support the juvenile court's finding that he received a stolen vehicle. When considering a claim of insufficient evidence, the court must apply the substantial evidence rule and must "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.” (*People v. Rodriguez* (1999) 20 Cal.4th 1, 11.)

Penal Code section 496d, subdivision (a) provides: “Every person who buys or receives any motor vehicle . . . that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any motor vehicle . . . from the owner, knowing the property to be so stolen or obtained, shall be punished” Thus, to sustain a conviction for receiving stolen property, the prosecution must prove (1) the property was stolen; (2) the defendant knew the property was stolen; and (3) the defendant had possession of the stolen property. (*In re Anthony J.* (2004) 117 Cal.App.4th 718, 728.)

J. B. contends there was no substantial evidence the car was stolen—that is, that the original taker intended to deprive the owner of the car either permanently or “for an unreasonable time so as to deprive the [owner] of a major portion of its value or enjoyment.” (*People v. Avery* (2002) 27 Cal.4th 49, 58.) Instead, according to J. B., the evidence suggests the car was taken merely for joyriding.¹

Viewing the evidence in the light most favorable to the prosecution, we conclude there is sufficient evidence to support a finding that the car was stolen. The owner of the car knew neither J. B. nor his codefendant, and had given neither of them permission to drive his car. The car had been missing since the day before J. B. was seen driving it. Whether J. B. or some unknown person originally took the car, a trier of fact could reasonably decide that the taker did not intend to return it to the owner.

J. B. argues, however, that there was no substantial evidence that he knew the car was stolen. Our Supreme Court has noted that “[p]ossession of a stolen item in and of itself is a factor which could assist a reasonable person in formulating a strong suspicion

¹ There was no evidence of who originally took the car. J. B.’s codefendant testified that someone gave the car to the group of youths and instructed them to park it around the corner.

that the recipient knew the item was stolen.” (*People v. Martin* (1973) 9 Cal.3d 687, 696.) As stated in *People v. Peters* (1982) 128 Cal.App.3d 75, 82, “ ‘Possession of recently stolen property is so incriminating that to warrant conviction there need only be, in addition to possession, slight corroboration in the form of statements or conduct of the defendant tending to show his guilt. [Citations.] . . . “[P]ossession of stolen property, . . . an unsatisfactory explanation of the possession, or by suspicious circumstances, will justify an inference that the goods were received with knowledge that they had been stolen. The rule is generally applied where the accused is found in possession of the articles soon after they were stolen.” ’ ” Circumstantial evidence is often used to prove knowledge that property was stolen. (See *People v. Vann* (1974) 12 Cal.3d 220, 224 [“[k]nowledge that property was stolen can seldom be proved by direct evidence and resort must often be made to circumstantial evidence”].)

Here, J. B. was found driving the car one day after it was reported stolen. The facts that the vehicle had an unconventional key and that the occupants quickly stopped and exited the car after seeing a police vehicle following them are suspicious circumstances that support an inference J. B. knew the car was stolen. Substantial evidence supports the juvenile court’s findings.

B. The Dispositional Order Should Be Modified to Specify the Maximum Period of Confinement Is Three Years

J. B. contends, and the People concede, that the juvenile court improperly set the maximum period of confinement at four years. The maximum term of confinement for a juvenile is the longest term “which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.” (Welf. & Inst. Code, § 726, subd. (c).)²

² We note that Welfare and Institutions Code section 726, subdivision (c) requires the juvenile court to specify a maximum period of confinement when a minor is removed from the physical custody of the parent or guardian. Although the juvenile court did not remove J. B. from his mother’s custody, we agree with the parties that since the court specified a maximum term of confinement, it may not exceed the time period authorized by section 726, subdivision (c).

The maximum term for possession of a stolen vehicle is three years. (Pen. Code, § 496d.) The supplemental petition did not include any enhancement allegations, and the juvenile court made no findings that would increase the period of confinement. Accordingly, the dispositional order must be modified to specify that the maximum period of confinement is three years.

III. DISPOSITION

The juvenile court is directed to modify the dispositional order to specify that the maximum period of confinement is three years. In all other respects, the judgment is affirmed.

RIVERA, J.

We concur:

KAY, P.J.

REARDON, J.