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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

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

B212416
(Los Angeles County
Super. Ct. No. GJ25585)

THE PEOPLE,

Plaintiff and Respondent,

v.

V.V.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Robert Leventer, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Laini Millar Melnick, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Lance E. Winters and Susan D. Martynec, Deputy Attorneys General, for Plaintiff and Respondent.

Minor V.V. appeals from the order of wardship entered following a finding that he committed arson in violation of Penal Code section 451, subdivision (c). (All further statutory references pertain to the Penal Code.) V.V. contends that the evidence was insufficient to support the finding. We affirm.

BACKGROUND

On the afternoon of July 18, 2008, 17-year-old V.V. and his two companions climbed a steep hill rising behind several homes in Pasadena. V.V. lit a firecracker, which his companion J.H. threw onto the ground. The firecracker ignited a brush fire.

Abel Ramirez testified he was in his backyard when he heard a “very loud boom.” He looked up at the hill and saw smoke, followed by flames. He also saw three young men run and slide down the hill. They landed in a yard, then ran down a street. Ramirez called 911 to report the fire and also provided a description of the clothing worn by the young men.

Ara Moujoukian lived at the foot of the hill. He heard young people laughing, yelling, and shouting. It sounded as if they were having a good time. Moujoukian went to the front of his house to investigate and saw V.V., J.H., and a third boy. One of the boys was in Moujoukian’s yard and the other two were on the sidewalk. He saw them “high-fiving.” Moujoukian shouted, ““What are you guys doing?”” The boys ran away. Moujoukian turned and saw that the hill behind his house was on fire. Moujoukian called 911 to report the fire. He also provided a description of the three boys.

Pasadena police officers detained the three boys about one-quarter mile from the hill. Officer Brian Bozarth patted down V.V. and found a disposable lighter and a large “cherry bomb” firecracker in his front trouser pocket. When Bozarth retrieved the firecracker from the pocket, V.V. said, ““That’s what caused the fire.”” V.V. also said he had blown up a firecracker on the mountain, causing the brush to catch fire.

Ramirez and Moujoukian identified the three boys in a field show-up and subsequently identified V.V. and J.H. at their joint adjudication hearing.

V.V. told Detective Jesse Carrillo that he lit the firecracker. He saw “a lot of green” on the hill and did not think the firecracker would start a fire. He just wanted to “make a lot of noise.” J.H. threw it, trying to make it land where it was “mostly green.”

J.H. told Carrillo that he brought the firecrackers, which he purchased in Compton on the Fourth of July. He held the firecracker while V.V. lit it, then he attempted to throw it at a concrete area. Carrillo testified that a particular concrete drainage ditch depicted in a prosecution exhibit was below and about 150 yards west of the fire’s point of origin. He did not know whether there were other concrete areas on the hill.

V.V. argued that the evidence showed that he did not act willfully and maliciously in starting the fire, that he was burning his own property (the firecracker), and that the fire was an accident. The juvenile court found that V.V. and his companions understood what they were doing and knew that “the natural consequence could be setting the hill on fire because they’re trying to throw the thing into a patch of green or into a cement area. So they’re trying to avoid setting the hill on fire. I know they had no intention to set the hill on fire” The court reasoned that “[*People v. Atkins* [(2001) 25 Cal.4th 76] clarifies that or redefines that and says that intentional at this point in the actual lighting of the firecracker without regard of their ultimate intention or the ultimate crime of burning down the hill. All they had to do is intend to light the firecracker or do so in such a way that is likely to produce the kind of injury that occurred.” The juvenile court sustained a Welfare and Institutions Code section 602 petition alleging arson and dismissed an allegation of reckless fire-starting (Pen. Code, § 452, subd. (c)). It declared V.V. to be a ward of the court and ordered him placed home on probation.

DISCUSSION

V.V. contends that the evidence was insufficient to support the juvenile court’s finding that he committed arson because there was no evidence he acted with malice.

To resolve this issue, we review the whole record in the light most favorable to the judgment to decide whether substantial evidence supports the juvenile court’s finding, so

that a reasonable fact finder could find the allegation true beyond a reasonable doubt. (*In re Babak S.* (1993) 18 Cal.App.4th 1077, 1088–1089.)

“A person is guilty of arson when he or she willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels, or procures the burning of, any structure, forest land, or property.” (§ 451.) “‘Maliciously’ imports a wish to vex, defraud, annoy, or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.” (§ 450, subd. (e).)

Arson is a general intent crime. (*People v. Atkins, supra*, 25 Cal.4th at p. 84.) “The statute does not require an additional specific intent to burn a ‘structure, forest land, or property,’ but rather requires only an intent to do the act that causes the harm.” (*Id.* at p. 86.) The statute’s requirement of willful and malicious conduct “ensures that the setting of the fire must be a deliberate and intentional act, as distinguished from an accidental or unintentional ignition or act of setting a fire; “in short, a fire of incendiary origin.”” (*Id.* at p. 88.) “Arson’s malice requirement ensures that the act is ‘done with a design to do an intentional wrongful act . . . without any legal justification, excuse or claim of right.’” (*Ibid.*) “‘Because the offensive or dangerous character of the defendant’s conduct, by virtue of its nature, contemplates such injury, a general criminal intent to commit the act suffices to establish the requisite mental state.’” (*Id.* at pp. 88–89.) “Thus, there must be a general intent to willfully commit the act of setting on fire under such circumstances that the direct, natural, and highly probable consequences would be the burning of the relevant structure or property.” (*Id.* at p. 89.)

Undisputed evidence established that V.V. intentionally ignited the firecracker with the knowledge and intent that his companion would throw the firecracker onto the hillside and it would explode amidst dry brush. This was not an accidental ignition, but a deliberate and intentional act of igniting and exploding the firecracker “under such circumstances that the direct, natural, and highly probable consequences would be the burning of” dry brush on the hill when the firecracker exploded. (*People v. Atkins, supra*,

25 Cal.4th at p. 89.) This was sufficient to establish malice, even if V.V. did not subjectively want the brush to burn.

DISPOSITION

The wardship order is affirmed.

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MALLANO, P. J.

We concur:

ROTHSCHILD, J.

JOHNSON, J.