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IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

KEITH A. WRIGHT,

Defendant and
Appellant.

B277766

(Los Angeles County
Super. Ct. No. MA067584)

APPEAL from a judgment of the Superior Court of Los Angeles County, Lisa M. Chung, Judge. Affirmed.

Heather L. Beugen, 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, Assistant

Attorney General, Noah P. Hill and David A. Voet, Deputy Attorneys General, for Plaintiff and Respondent.

* * * * *

In a “road rage” incident, Keith Wright aggressively pursued a victim in a high-speed chase and intentionally slammed his pickup truck into her car, totaling her car and injuring her. He was charged with assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1)), and it was alleged he had suffered two “strike” convictions in 1992 arising out of a similar “road rage” incident during which he chased a driver and his 13-year-old son on a highway, tried to run them off the road, and pointed a gun at them. (Pen. Code, §§ 667, subds. (a)(1), (b)-(j), 1170.12, subd. (b).)

Appellant moved to dismiss these prior convictions under Penal Code section 1385 and *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497. The trial court exercised its discretion to dismiss one, but not both. Appellant pled no contest to assault with a deadly weapon, admitted the prior strike, and received a second-strike sentence of nine years in state prison.

On appeal, appellant challenges the trial court’s refusal to strike both prior convictions. We review the court’s decision for abuse of discretion, which requires appellant to show the decision “is so irrational or arbitrary that no reasonable person could agree with it.” (*People v. Carmony* (2004) 33 Cal.4th 367, 376-377 (*Carmony*).) Appellant has not carried that burden here.

In deciding whether to strike a prior conviction, a trial court must consider “whether, in light of the nature and circumstances of his present felonies and prior serious and/or violent felony convictions, and the particulars of his background, character, and prospects, the defendant may be deemed outside the scheme’s spirit, in whole or in part, and hence should be treated as though he had not previously been convicted of one or more serious and/or violent felonies.” (*People v. Williams* (1998) 17 Cal.4th 148, 161.)

In striking only one prior conviction, the trial court carefully explained on the record that it considered the 24 years between the incidents, appellant’s family support, his CPR certificate and eligibility to renew his hazardous materials endorsement, and his potential second-strike sentence if the court struck one prior conviction. It found the similar conduct between the prior and current convictions “disturbing” but noted a three-strikes sentence of 35 years to life would be a “jump.” Striking one conviction would leave appellant with a “significant second strike sentence.” The court also recognized appellant was given probation after his 1992 conviction, but violated it in 1994 and was sentenced to two years in state prison. He then violated parole in 1998 and was returned to prison to complete his term.

We have considered appellant’s arguments and find none push the trial court’s ruling beyond the realm of reasonable decisionmaking. Where, as here, “the record demonstrates that the trial court balanced the relevant facts and reached an impartial decision in conformity with the spirit of the law, we shall affirm the trial court’s ruling, even if we might have ruled

differently in the first instance.’” (*Carmony, supra*, 33 Cal.4th at p. 378.)

DISPOSITION

The judgment is affirmed.

SORTINO, J.*

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.