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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT ANTHONY
CARRANZA,

Defendant and Appellant.

2d Crim. No. B290552
(Super. Ct. No. 2017025872)
(Ventura County)

Robert Anthony Carranza appeals from the judgment after a jury convicted him of evading a peace officer with willful disregard (Veh. Code, § 2800.2, subd. (a)), resisting or obstructing a peace officer (Pen. Code, § 148, subd. (a)(1)), providing false information to a peace officer (Pen. Code, § 148.9, subd. (a)), and driving with a suspended license (Veh. Code, § 14601.1, subd. (a)). Carranza admitted that he suffered a prior strike conviction (Pen. Code, §§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d)) and served two prior prison terms (Pen. Code, § 667.5, subd. (b)). The trial court sentenced him to five years in state prison.

Carranza contends: (1) the prosecution presented insufficient evidence that he drove with willful disregard, (2) the trial court erroneously admitted evidence of the reason for his driver's license suspension, (3) the court erroneously admitted evidence of his prior convictions for impeachment purposes, and (4) the court failed to advise him of his due process rights before he admitted the allegations that he suffered prior felony convictions. We affirm.

FACTUAL AND PROCEDURAL HISTORY

California Highway Patrol (CHP) Officer Frank Paramo observed Carranza driving 75 miles per hour in a section of the Pacific Coast Highway with a 55 mile-per-hour speed limit. Paramo stopped Carranza and asked to see his driver's license. Carranza said that his license had been stolen. He told the officer that his name was Alex Marcelino Carranza.

Officer Paramo ran the vehicle identification number of the car Carranza was driving. Dispatch reported that it had been stolen. Paramo radioed for backup so he could conduct a felony traffic stop. CHP Officer Pete Siggard arrived a few minutes later.

Carranza drove away when Officer Siggard arrived. A pursuit ensued. Officer Paramo said Carranza committed "[p]ossibly four" traffic violations during the pursuit: "[d]riving the wrong way in the center median, unsafe speed, unsafe turning movements[,] and reckless driving." A dashboard video camera in Paramo's patrol car recorded the pursuit.¹

Carranza eventually crossed the median and spun out of control. He abandoned the car, jumped over a guardrail,

¹ The recording was played for the jury at trial.

and fled down a cliff. A construction worker found him hiding in a bathtub about 90 minutes later.

Prosecutors charged Carranza with evading a peace officer with willful disregard, unlawfully driving or taking a vehicle (Veh. Code, § 10851, subd. (a)), receiving a stolen vehicle (Pen. Code, § 496d, subd. (a)), resisting or obstructing a peace officer, providing false information to a peace officer, and driving with a suspended license. They also alleged that Carranza suffered a prior strike conviction for assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1)), and that he served prison terms for that conviction and for a conviction for inflicting corporal injury on a spouse (Pen. Code, § 273.5, subd. (a)).

The prosecution moved to admit evidence of Carranza's prior convictions for impeachment purposes at trial. At a hearing outside the presence of the jury, Carranza objected that the convictions did not "have anything to do with [his] credibility" and that their admission would be unduly prejudicial. The trial court overruled the objections.

At the same hearing, Carranza told the trial court that he would "waive jury" on the prior conviction allegations. The court told Carranza that he had the right to a jury trial on the allegations. That meant "the jury would have to find it beyond a reasonable doubt and you'd have the right to have your attorney cross-examine witnesses. You would not have to testify and you wouldn't—that couldn't be held against you." The court also told Carranza that a true finding on the prior strike allegation could double any potential sentence imposed. Each prior prison term allegation found true could add one year to his sentence. True findings would also affect his credits calculation and ability to be granted probation. Carranza said that he

understood, and waived his right to a jury trial. The court said they would determine later whether Carranza would admit the allegations or have a court trial.

At trial, an analyst from the district attorney's office testified that Carranza's driver's license had been suspended since August 2012. The prosecutor asked the reason for the suspension. Carranza objected that the reason was not relevant. The trial court overruled the objection. The analyst replied that Carranza's license was suspended because he failed to pay child support. The court denied Carranza's motion to strike the analyst's answer.

Carranza testified in his own defense. He began his testimony by admitting that he had suffered prior convictions for assault with a deadly weapon and inflicting corporal injury on a spouse. The trial court instructed the jury that it could consider the convictions only when evaluating Carranza's credibility. It could not consider them for the purpose of showing that Carranza had a propensity to commit the charged crimes.

Carranza said that he borrowed the car from a friend. He gave Officer Paramo his brother's name instead of his own because he had not checked in with his parole officer "for quite some time." He fled because the officers pointed assault rifles at him. While he drove in excess of 90 miles per hour during the pursuit and occasionally drove in the center lane, he never came close to colliding with another vehicle.

Carranza said he decided not to flee from the officers any longer about 10 minutes into the pursuit. He tried to pull the car to the shoulder of the highway, but hit gravel and spun out of control. When the car stopped, he ran across the highway. One of the officers' patrol vehicles hit him, and he jumped over

the guardrail. He told two people that he was being chased. They directed him to hide in a bathtub.

The jury convicted Carranza of evading an officer with willful disregard, resisting or obstructing a peace officer, providing false information to a peace officer, and driving with a suspended license. It acquitted him of unlawfully driving or taking a vehicle and receiving a stolen vehicle.

Prior to sentencing, counsel told the trial court that Carranza would admit the prior conviction allegations. The court noted that Carranza had already waived jury trial on the allegations. After a colloquy with the prosecutor, Carranza admitted them. His attorney joined. The court accepted the admissions, and found the allegations to be true.

DISCUSSION

Sufficiency of the evidence

Carranza contends the prosecution presented insufficient evidence that he drove with willful disregard. We disagree.

When evaluating a challenge based on the sufficiency of the evidence, we “review the whole record in the light most favorable to the judgment below 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. Davis* (1995) 10 Cal.4th 463, 509.) We ““presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence.” [Citation.]” (*Ibid.*) “Conflicts and even testimony [that] is subject to justifiable suspicion do not justify the reversal of a judgment, for it is the exclusive province of the . . . jury to determine the

credibility of a witness and the truth or falsity of the facts upon which a determination depends.” (*People v. Maury* (2003) 30 Cal.4th 342, 403 (*Maury*).) Reversal “is unwarranted unless it appears “that upon no hypothesis whatever is there sufficient substantial evidence to support” the jury’s verdict. [Citation.]” (*People v. Zamudio* (2008) 43 Cal.4th 327, 357.)

To sustain a conviction for evading a peace officer with willful disregard, there must be sufficient evidence that the defendant committed three or more traffic violations. (Veh. Code, § 2800.2, subd. (b).) Here, Officer Paramo testified that Carranza committed four violations. The jury credited his testimony. Substantial evidence therefore supports Carranza’s conviction. (*People v. Barnwell* (2007) 41 Cal.4th 1038, 1052 [testimony of single witness satisfies substantial evidence standard].)

Carranza claims that the video recording from the dashboard camera contradicted Officer Paramo’s testimony because it showed that Paramo lost sight of Carranza at various points during the pursuit. But the video does not contradict Paramo’s testimony; it captured only some of what happened. (Cf. *Fashion 21 v. Coalition for Humane Immigrant Rights of Los Angeles* (2004) 117 Cal.App.4th 1138, 1149-1150 [although video did not show employee distributing flyers, jury could infer he did so from video showing he participated in demonstration and had flyers in his possession].) And even if it did contradict the testimony, that conflict was for the jury to resolve. (*Maury*, *supra*, 30 Cal.4th at p. 403.)

“The circumstances in which an appellate court may properly decline to credit testimony are exceptional and rare.” (*People v. White* (2014) 230 Cal.App.4th 305, 319, fn. 14.) “Testimony may be rejected only when it is inherently improbable

or incredible, i.e., “unbelievable per se,” physically impossible[,] or “wholly unacceptable to reasonable minds.” [Citations.]” (*Oldham v. Kizer* (1991) 235 Cal.App.3d 1046, 1065, italics omitted.) There was nothing improbable or incredible about Officer Paramo’s testimony. Substantial evidence supports the jury’s determination that Carranza drove with willful disregard.

Evidence of the reason for Carranza’s suspended driver license

Carranza contends the trial court’s admission of evidence that his driver’s license was suspended for failure to pay child support was irrelevant and unduly prejudicial.² We agree that the court erred. But the error was harmless.

“Only relevant evidence is admissible at trial.” (*People v. Merriman* (2014) 60 Cal.4th 1, 74 (*Merriman*); see Evid. Code, § 350.) Evidence is relevant if it has “any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action.” (Evid. Code, § 210.) The test is whether the evidence “‘logically, naturally, and by reasonable inference’ [tends] to establish material facts.” (*People v. Garceau* (1993) 6 Cal.4th 140, 177, abrogated on another ground as stated in *People v. Yeoman* (2003) 31 Cal.4th 93, 117.)

“A trial court has ‘considerable discretion’ in determining the relevance of evidence. [Citation.]” (*Merriman, supra*, 60 Cal.4th at p. 74.) We will not disturb the court’s determination unless it has abused its discretion. (*Ibid.*) But

² The Attorney General claims Carranza forfeited his contentions because he did not object to the evidence at trial. We disagree. The record shows that Carranza objected to the prosecutor’s question about the reason for the suspension, and moved to strike the subsequent answer.

even if the court did so, reversal is unwarranted unless it is reasonably probable that Carranza would have obtained a more favorable result absent the error. (*People v. Earp* (1999) 20 Cal.4th 826, 878; see *People v. Watson* (1956) 46 Cal.2d 818, 836.)

The trial court abused its discretion when it admitted evidence that Carranza's driver's license was suspended for failure to pay child support. While evidence of the suspension was relevant to the charges against Carranza, the reason for the suspension was not; it did not tend to prove or disprove any fact relevant to the determination of the case. Its admission was error.

But the error was harmless. The evidence against Carranza was overwhelming. Officer Paramo testified about the pursuit underlying the evading and resisting charges. The jury saw video of it. And Carranza admitted that he fled when Officer Siggard arrived, exceeded 90 miles per hour, drove in the center lane, and spun out when he hit gravel on the shoulder of the highway.

As to the false information and suspended license charges, Officer Paramo testified that Carranza gave him a false name—something Carranza admitted during his own testimony. The analyst testified that DMV records showed that Carranza's license was suspended. And Carranza admitted that he was guilty of that charge during closing arguments.

Additionally, the jury acquitted Carranza of two charges. Those acquittals show that the irrelevant evidence did not bias jurors against Carranza. (*People v. Williams* (2017) 7 Cal.App.5th 644, 684.) And the overwhelming evidence of Carranza's guilt shows there is no reasonable probability that the outcome of trial would have been different had the trial court

properly excluded the irrelevant evidence. (*People v. Hines* (1997) 15 Cal.4th 997, 1036-1037.) Admission of evidence that Carranza's driver's license was suspended for failure to pay child support was harmless.

Impeachment evidence

Carranza next contends the trial court should not have admitted evidence of his prior convictions for assault with a deadly weapon and infliction of corporal injury on a spouse for impeachment purposes because the convictions did not relate to his truthfulness. But both of those convictions were for crimes of moral turpitude. (*People v. Rodriguez* (1992) 5 Cal.App.4th 1398, 1401-1402 [infliction of corporal injury]; *People v. Cavazos* (1985) 172 Cal.App.3d 589, 595 [assault with a deadly weapon].) Evidence of a defendant's convictions for crimes involving moral turpitude is admissible for impeachment purposes (*People v. Castro* (1985) 38 Cal.3d 301, 317) because such crimes "shake one's confidence in [the defendant's] honesty" (*id.* at p. 315) and "suggest a willingness to lie" (*People v. Wheeler* (1992) 4 Cal.4th 284, 295). The evidence was therefore admissible unless it was unduly prejudicial. (*Castro*, at p. 317; see Evid. Code, § 352.)

The trial court determined that it was not. And besides presenting a conclusory assertion that the court's determination was erroneous, Carranza does not challenge it in any meaningful way. We reject his contention. (*Jones v. Superior Court* (1994) 26 Cal.App.4th 92, 99 [issues not supported by argument or citations to authority are forfeited].)

Admission of prior convictions

Finally, Carranza contends the trial court failed to adequately advise him of his constitutional rights before he admitted his prior convictions. We disagree.

A defendant has a due process right to a fair trial on a prior conviction allegation. (*People v. Cross* (2015) 61 Cal.4th 164, 172-173.) Any waiver of that right “must be ‘knowingly and intelligently made.’ [Citation.]” (*Id.* at p. 173.) Before a defendant waives the right to a trial on a prior conviction allegation, the trial court must advise them of: (1) the constitutional protections the defendant waives by forgoing trial, and (2) the penalties that may result if the allegation is found true. (*In re Yurko* (1974) 10 Cal.3d 857, 860.) If the court fails to do so, reversal is required unless “the record affirmatively shows that the [defendant’s] admission [was] voluntary and intelligent under the totality of the circumstances.’ [Citation.]” (*Cross*, at p. 179.)

The trial court here provided the required admonitions when, in the middle of the prosecution’s case, Carranza said that he wanted to waive jury trial on the prior conviction allegations. The court told Carranza of his right to a trial by jury. It advised him of his right to cross-examine witnesses, his right not to testify, and his right to have the jury decide whether the prosecution proved the prior conviction allegations beyond a reasonable doubt. And it explained the penal consequences Carranza could suffer if the allegations were found true. No more was required. (*In re Yurko, supra*, 10 Cal.3d at pp. 863-864 [listing required admonitions].)

That the trial court did not repeat these admonitions when, two days later, Carranza said that he wanted to admit the prior conviction allegations does not require us to vacate the court’s findings. Carranza asked no questions of the court or prosecutor when discussing the allegations, and expressed no uncertainty about the rights he was waiving. (*People v. Gordon*

(2009) 177 Cal.App.4th 1550, 1556 [waiver valid where defendant asked no questions during colloquy with court].) He waived his right immediately after the jury rendered its verdict, after a trial in which he witnessed firsthand the rights he was waiving. (*People v. Mosby* (2004) 33 Cal.4th 353, 365 [waiver valid where defendant “had just participated in a jury trial”].) He was no stranger to the criminal justice system, having suffered at least two prior convictions. (*People v. Sivongxxay* (2017) 3 Cal.5th 151, 167-168 [prior experience with criminal justice system tends to show a valid waiver].) And it appears that he discussed his waiver with counsel given that it was counsel, not Carranza, who told the court that Carranza wanted to admit the allegations. (*People v. Diaz* (1992) 3 Cal.4th 495, 571 [waiver valid where defendant discussed waiver with counsel].) The totality of the circumstances shows that Carranza’s waiver was voluntary and intelligent. (See, e.g., *Mosby*, at pp. 364-365; *People v. Howard* (1992) 1 Cal.4th 1132, 1180.)

DISPOSITION

The judgment is affirmed.

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TANGEMAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

Ryan J. Wright, Judge

Superior Court County of Ventura

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