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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.

GILES JERRY MEDLOCK, JR.,

Defendant and Appellant.

B280929

(Los Angeles County
Super. Ct. No. BA425947)

APPEAL from the judgment of the Superior Court of Los Angeles County. Henry J. Hall, Judge. Affirmed.

Thien Huong Tran, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

* * * * *

This is the second appeal by defendant and appellant Giles Jerry Medlock, Jr., arising from his conviction by jury of assault with a deadly weapon. We briefly summarize the pertinent facts and procedure from our opinion in the first appeal. (*People v. Medlock* (July 18, 2016, B264486) [nonpub. opn.].)

In 2014, defendant was charged with attempted murder (Pen. Code, §§ 187, subd. (a), 664; count 1)¹ and assault with a deadly weapon (§ 245, subd. (a)(1); count 2). It was alleged defendant used a deadly weapon (a knife) and inflicted great bodily injury on the victim in the commission of the offenses (§§ 12022, subd. (b)(1), 12022.7, subd. (a)). It was further alleged defendant had suffered four prior convictions for serious or violent felonies within the meaning of section 667, subdivision (a)(1) and the Three Strikes law (§§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d), 667.5, subd. (c)).

The charges arose from an incident in a laundromat in which defendant assaulted a friend of his (Ronald Christensen). The fight between the two men was witnessed by another patron at the laundromat. During the course of the fight, defendant cut Mr. Christensen across his throat, leaving a wound approximately three inches long. Mr. Christensen did not have a weapon.

Defendant was apprehended by police officers a few blocks away from the laundromat, and identified by the laundromat patron who had witnessed the incident. While being detained, defendant said, “[y]eah, I’m the suspect. I cut him. I’ll cut him and his mammy. Homosexual motherf---er hit me in the face. I

¹ All further undesignated section references are to the Penal Code.

was trying to kill him.” During a search of defendant’s person, a knife was located in one of his pockets which tested positive for Mr. Christensen’s blood.

At trial, defendant testified in his own defense. The jury rejected defendant’s claim of self-defense but acquitted him of attempted murder. The jury convicted him of assault with a deadly weapon and found the special allegations true.

In a bifurcated proceeding, the trial court found true the allegations regarding defendant’s four prior convictions: a 1970 conviction for robbery in California, a 1976 conviction for attempted robbery with a firearm in Oklahoma, a 1979 conviction for first degree manslaughter in Oklahoma, and a 2008 conviction for assault with a dangerous weapon in Oklahoma. The court also denied defendant’s motion pursuant to *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497 (*Romero*), reasoning that defendant had “essentially an unbroken string of criminality going back over 50 years.”

Defendant was sentenced to state prison for a term of 25 years to life on count 2 (§ 667, subd. (e), § 1170.12, subd. (c)), plus a consecutive determinate term of 23 years. The determinate term was calculated as follows: four consecutive five-year terms for each of the prior convictions (§ 667, subd. (a)(1)), plus a consecutive three-year term for the great bodily injury enhancement (§ 12022.7).

Defendant filed a timely appeal. In that first appeal, defendant, with the assistance of appointed counsel, argued his conviction for assault was not supported by substantial evidence, and the trial court erred in finding that two of his out-of-state

convictions² qualified as serious or violent felonies under the “Three Strikes” law and section 667, subdivision (a)(1). In briefing before this court, defendant conceded that his two other convictions (the 1970 and 2008 convictions) qualified as prior strikes.

In our July 18, 2016, unpublished opinion, we rejected defendant’s substantial evidence argument. However, we reversed the true findings on the 1976 and 1979 Oklahoma convictions, and remanded for a limited retrial to determine if those priors qualified as serious or violent felonies under the Three Strikes law and section 667, subdivision (a)(1).

Our remand order directed that if the People elected not to retry the two priors, the trial court was to strike two of the five-year terms imposed pursuant to section 667, subdivision (a)(1) and to prepare and transmit a modified abstract of judgment.

On January 24, 2017, the trial court held a new sentencing hearing. The People confirmed on the record that the two Oklahoma priors would not be retried. The court struck the two 5-year terms for the 1976 and 1979 priors in accordance with our previous opinion. The court imposed a third-strike sentence (there being no dispute the prosecution had proved defendant had two prior strikes) as follows: a term of 25 years to life on count 2, plus a determinate term of 13 years (two consecutive five-year terms for the two remaining priors, and a three-year consecutive term for the great bodily injury enhancement).

² The 1976 conviction in Oklahoma for attempted robbery with a firearm and the 1979 conviction in Oklahoma for first degree manslaughter.

Defendant then filed this appeal from the resentencing hearing. We appointed appellate counsel to represent defendant (the same counsel from his earlier appeal). Appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) in which no issues were raised. The brief included a declaration from counsel that he reviewed the record and sent a letter to defendant explaining his evaluation of the record. Counsel further declared he advised defendant of his right, under *Wende*, to submit a supplemental brief within 30 days, and forwarded copies of the record to defendant.

On September 8, 2017, defendant filed a handwritten brief that enumerates the following issues: (1) his 2008 conviction in Oklahoma for assault with a deadly weapon does not qualify as a strike under California and it must therefore be stricken; (2) the trial court abused its discretion in denying his *Romero* motion as his 1970 robbery conviction was remote in time from the charged offenses; (3) his trial counsel was ineffective in failing to adequately investigate, failing to properly put on all relevant evidence, including expert witnesses, and other errors leading to an unfair trial; and (4) defendant has never conceded the court was justified in imposing a third-strike sentence.

Where, as here, an appeal follows a limited remand, “the scope of the issues before the court is determined by the remand order.” (*People v. Murphy* (2001) 88 Cal.App.4th 392, 396-397, citing *People v. Deere* (1991) 53 Cal.3d 705, 713.) None of the issues enumerated by defendant pertain to any alleged errors related to, or encompassed by, the scope of the January 24, 2017 resentencing hearing, except his claim that his 2008 Oklahoma conviction does not qualify as a strike. In his previous appeal,

defendant conceded the 2008 Oklahoma conviction qualified as a strike, and we so found.

As for any other potential appellate issues, we have examined the entire record of the limited proceedings submitted to this court, and are satisfied that appointed counsel fully complied with his responsibilities in assessing whether or not any colorable appellate issues exist. We conclude there are no arguable appellate issues. (*People v. Kelly* (2006) 40 Cal.4th 106; *Wende, supra*, 25 Cal.3d 436.)

DISPOSITION

The judgment of conviction is affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

RUBIN, J.