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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.

WILLIAM COOPER ADAMS,

Defendant and Appellant.

2d Crim. No. B289406
(Super. Ct. No. 2017037108)
(Ventura County)

William Cooper Adams appeals after he pled guilty to grand theft (Pen. Code,¹ § 487, subd. (a)) and conspiracy to commit petty theft (§§ 182, subd. (a), 484). Appellant also admitted, and the trial court found true, allegations as to both counts that appellant had a prior strike conviction (§§ 667, subds. (c)(1) & (e)(1), 1170.12, subds. (a)(1) & (c)(1)) and had served five prior prison terms (§ 667.5, subd. (b); hereinafter § 667.5(b)). Appellant was sentenced to 11 years in state prison. He contends, and the People concede, that two of his section 667.5(b)

¹ All statutory references are to the Penal Code.

prison priors must be stricken because the felony convictions upon which they are premised were subsequently reduced to misdemeanors pursuant to Proposition 47. We shall order the two subject one-year enhancements stricken and affirm the judgment as so modified.

FACTS AND PROCEDURAL HISTORY

In September 2017, appellant entered a bicycle store and asked an employee if he could take a bike for a “test ride” before buying it.² Appellant was allowed to do so after signing a release form and providing a copy of his driver’s license. Appellant took the bike, which was valued at over \$2,000, outside and briefly rode it in front of the store. After the bike’s seat was changed at his request, he took the bike back outside and rode away on it.

The following month, appellant stole several lottery tickets from a gas station minimart while an accomplice distracted the minimart’s sole employee. When appellant was apprehended several hours later, he falsely identified himself as his brother Matthew. He eventually admitted his true identity and also admitted committing the theft.

Appellant was subsequently charged with grand theft (count 1), conspiracy to commit petty theft (count 2), and giving false information to a peace officer (count 3; § 148.9, subd. (a)). Counts 1 and 2 each included allegations that appellant had a prior strike conviction for burglary and had served five prior prison terms as provided in section 667.5(b). On December 26, 2017, appellant waived his right to counsel and pled guilty to counts 1 and 2. He also admitted the strike and prior prison term allegations and the court found them to be true. The trial

² Because appellant pled guilty prior to a preliminary hearing, the relevant facts are derived from the probation report.

court sentenced appellant to a total term of 11 years in state prison, consisting of the upper term of three years for the grand theft, doubled for the strike prior, plus consecutive one-year terms for each of the five section 667.5(b) prison priors.

Appellant timely appealed and was granted a certificate of probable cause. Counsel was appointed to represent him on appeal. At counsel's request, we took judicial notice of docket entries reflecting that in April 2015, the felony convictions underlying two of appellant's section 667.5(b) prison priors (in *People v. Adams* (Super. Ct. Ventura County, 1996, No. CR39563) and *People v. Adams* (Super. Ct. Ventura County, 1998, No. CR45352)) were reduced to misdemeanors pursuant to section 1170.18, which was enacted as part of Proposition 47. On our own motion, we also took judicial notice of the formal orders reducing the two felony convictions to misdemeanors. (Evid. Code, §§ 452, subd. (d), 459, subd. (a).)

DISCUSSION

Appellant contends the two section 667.5(b) prison priors that are based on felony convictions that were previously reduced to misdemeanors (identified in the complaint as Special Allegations 6 and 7) must be stricken. The People correctly concede the issue.

The two subject convictions were reduced to misdemeanors in April 2015. Appellant was charged, convicted, and sentenced in the instant matter in December 2017. It is now settled that section 667.5(b) enhancements cannot be imposed for felony convictions that have been reduced to misdemeanors pursuant to Proposition 47. (*People v. Buycks* (2018) 5 Cal.5th 857, 895-896.) A felony conviction that has been reduced to a misdemeanor under section 1170.18 must thereafter "be considered a

misdemeanor for all purposes,” and a section 667.5(b) enhancement can only be based on a prison term imposed for a felony. (*Buycks* at pp. 895-896; *People v. Warren* (2018) 24 Cal.App.5th 899, 909.) Accordingly, the one-year enhancements based upon appellant’s convictions in *People v. Adams* (Super. Ct. Ventura County, 1996, No. CR39563) and *People v. Adams* (Super. Ct. Ventura County, 1998, No. CR45352) are unauthorized and must be stricken.

DISPOSITION

The one-year prior prison term enhancements (§ 667.5 (b)) alleged in the information as Special Allegations 6 & 7 are stricken. The trial court is directed to prepare a corrected abstract of judgment and forward a copy to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed.

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PERREN, J.

We concur:

GILBERT, P. J.

TANGEMAN, J.

David R. Worley, Judge
Superior Court County of Ventura

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Appeal, for Defendant and Appellant.

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