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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

PATRICK ZAMORA TAYLOR,

Defendant and Appellant.

B287337

(Los Angeles County
Super. Ct. No. MA071233)

APPEAL from a judgment of the Superior Court of Los Angeles County, Kathleen Blanchard, Judge. Affirmed.

Nicholas Seymour, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury convicted appellant Patrick Zamora Taylor of battery with serious bodily injury (Pen. Code,¹ § 243, subd. (d); count 1) on Chris Cooper, and assault by means of force likely to produce great bodily injury (§ 245, subd. (a)(4); count 2) on Cooper. In both counts the jury found true that appellant personally inflicted great bodily injury. Although appellant was charged with inflicting great bodily injury under section 12022.7, subdivision (b) by rendering the victim comatose, and the jury verdict referred to subdivision (b) of section 12022.7, the jury was not instructed on that provision. Rather, the jury was instructed on infliction of great bodily injury as defined by section 12022.7, subdivision (a), with no mention of the victim being comatose, and the trial court therefore deemed the finding to fall under subdivision (a) of section 12022.7.² The jury deadlocked on an additional charge of assault by means of force likely to produce great bodily injury regarding a different alleged victim, and the court later dismissed that count. Also, the court found appellant in violation of a previous grant of probation in case No. MA068641. The court sentenced appellant to a total term of seven years, eight months, as follows: on count 2, the upper term of four years, plus three years under section 12022.7, subdivision (a); on count 1, the identical sentence, stayed under section 654; and in case No. MA068641, a consecutive term of eight months.

¹ All further section references are to the Penal Code.

² Section 12022.7, subdivision (a) imposes a 3-year enhancement; subdivision (b) imposes a 5-year enhancement.

On appeal from the judgment of conviction, appellant's counsel has filed a *Wende* brief (*People v. Wende* (1979) 25 Cal.3d 436), asking that we independently review the record.

BACKGROUND

Chris Cooper was the former boyfriend of Megan Jones. She ended that relationship in 2015, and began dating appellant in 2017. Upset about Jones dating appellant, Cooper posted negative things about Jones on social media. On April 28, 2017, appellant and Cooper met in the parking lot of a Del Taco restaurant, and engaged in mutual combat. Witness Sequoia Carger observed the fight, saw appellant strike Cooper on the chin, and saw Cooper fall to the pavement. Witness David Topps (Cooper's cousin) observed Cooper on the ground, was himself struck by appellant, and saw appellant flee in his car. Cooper suffered a broken skull, subdural hematoma, subarachnoid hemorrhage, and brain swelling requiring three cranial surgeries. His injuries were consistent with being punched, falling backward, and striking his head on the pavement. He spent two months in the hospital and was then transferred to a long term rehabilitation facility.

At trial, appellant testified that he expected that he and Cooper would settle their dispute by talking, but Cooper approached with his hands up and swung at his face. The two men threw punches at each other. One of appellant's punches connected with Cooper's jaw and he fell.

DISCUSSION

Appellant's counsel notified appellant of his right to file a supplemental brief within 30 days. That period has expired and no brief was filed. We have examined the entire record, and have found no arguable issues. (*Wende, supra*, 25 Cal.3d at p. 443.)

DISPOSITION

The judgment is affirmed.

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WILLHITE, Acting P. J.

We concur:

COLLINS, J.

MICON, J.*

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