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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.

EBONY MONAE WALKER,

Defendant and Appellant.

B284885

(Los Angeles County
Super. Ct. No. NA105481)

APPEAL from a judgment of the Superior Court of
Los Angeles County, James D. Otto, Judge. Affirmed.

A. William Bartz, Jr., under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Defendant Ebony Walker was convicted of driving under the influence of alcohol causing great bodily injury, evading police, and hit-and-run driving. She appealed. We have conducted an independent examination of the entire record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), and conclude that no arguable issues exist. We therefore affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The Los Angeles County District Attorney charged defendant with two felony counts of driving under the influence of alcohol (DUI) causing injury, within ten years of two other DUI offenses (Veh. Code, §§ 23153, subds. (a), (b), 23566, subd. (a), counts 1 and 2); felony hit-and-run driving (Veh. Code, § 20001, subd. (b)(2), count 3); felony fleeing a peace officer while driving recklessly (Veh. Code, § 2800.2, count 4); and two misdemeanor counts of hit-and-run driving resulting in property damage (Veh. Code, § 20002, subd. (a), counts 5 and 6). As to counts 1, 2, and 3, it was further alleged that defendant personally inflicted great bodily injury upon the victim. (Pen. Code, § 12022.7 subd. (a.)) Defendant pled not guilty and denied the allegations. She later admitted her prior DUI convictions, and the case proceeded to a jury trial.

At trial, the following evidence was introduced by the prosecution. William Bordeaux, a communications supervisor for the Long Beach Police Department (LBPD), testified that LBPD received two 911 calls relating to the incident. The first call from a witness named Virgil was received at 3:01 a.m. on August 20, 2016. A recording of the call was played for the jury. In it, Virgil said there was a “drunk ass lady” who was “going crazy in her car.” He said, “[O]h my god, she is still going. She is driving

back and forth.” He reported that the woman was driving an SUV, and there was a man “just laying in the middle of the fucking street and he is hurt.” He also said, “She is going to kill somebody,” and “She is still circling and going crazy. Oh my god. She is still going.” Virgil then said police had arrived, and the call ended. The second call was from a caller who identified himself as Michael, whose testimony is discussed below.

Juan H.¹ testified that he was in a wheelchair at the time of the incident on August 20, 2016. He was at the Fabulous West bar in Long Beach; it was a busy night at the bar. After the bar closed and people were outside in the parking lot, Juan saw people fighting. Juan testified that he was hit by a black SUV driving in reverse. When the car hit him, he and his wheelchair collapsed onto the ground. Juan later went to College Medical Center to be checked out; he testified that due to his paraplegia, “I can’t feel my bottom half.” He had surgery on his left hip, and he was in the hospital for four days.

Orthopedic surgeon Sarbpaul Bhalla, M.D., testified that he was on call for the emergency department at College Medical Center the night of the incident. Juan arrived to the medical center with multiple fractures to his left hip. Dr. Bhalla repaired the fractures with surgery involving the placement of a long nail and a screw.

LBPD officer Bryan Watt testified that he investigated the incident. Juan called Watt eight to ten times in the week or two after the incident. Juan told Watt that earlier in the evening, the woman who hit him had been inside the Fabulous West bar, arguing with her boyfriend. Juan also told Watt that after people

¹ We refer to the victims by their first names to protect their privacy. (See Cal. Rules of Court, rule 8.90(b)(4).)

began leaving the bar, he heard the woman and man continue to argue; the man struck the woman and “body slammed her to the ground.” Several patrons came to the woman’s rescue, and a fight broke out between the boyfriend and another man. Watt testified that Juan told him he saw the woman get into a Ford Explorer, and she “began driving crazy around the intersection. At one point, the vehicle backed up to where the two [men] were fighting, backed up at a high rate of speed towards them. [One man] was able to jump out of the way, but the boyfriend was not and was struck by the Ford Explorer ran over him [sic], then went forward and ran back over him a second time.” Juan said the vehicle continued to drive “in a crazy manner,” and it eventually backed up at a high rate of speed into Juan and his wheelchair. Juan said his leg was pinned under the tire of the car. The car then drove forward again and drove away.² LBPD officer Aristeo Sandoval testified that he met with Juan in the hospital after the incident, and Juan reported similar events to him.

Eliseo C. testified that his van was parked on the street near the Fabulous West bar and parking lot. He was asleep in the van, and was awakened when he heard screeching tires and the van was hit from the outside. He looked out the window and saw a black car “like a Chevy Tahoe” or a Suburban or Yukon. The car was driving in a circular motion. Eliseo’s van sustained damage from the impact.

² Juan did not provide many of these details in his trial testimony. Watt testified that Juan initially was cooperative in the investigation, but became uncooperative after he was served with a subpoena to appear at the preliminary hearing.

Michael G. testified that around 3:00 a.m. on August 20, 2016 he was driving a fuel truck; he was just finishing his shift and was driving to his employer's location, which was about a block from the Fabulous West bar. He saw a large group of people standing in the bar parking lot, and as he got closer, the people began running into the street and yelling. One man broke out from the group and was being chased by others; he tripped and fell, and the others began kicking and hitting him. As Michael continued driving he heard screeching tires, and a dark SUV came from Michael's left side, driving in reverse, and hit the back part of his fuel truck. The driver of the SUV did not stop and exchange information with Michael. The collision damaged the truck.

Michael said he did not feel safe in the area, so he drove to the truck yard about a block away, locked the gate behind him, and then called 911. The 911 dispatcher told Michael to wait for officers to clear the scene of the incident. About ten minutes later, Michael returned to the area of the incident; the police were there, but the dark SUV was not.

Witness Hashan Silva testified that he also saw a black Ford Explorer hit a tanker truck and some parked cars, and then it "backed up and hit the guy in the wheelchair." There was another man, and "either he got on top of the hood" of the SUV "or he got hit and fell on the hood. Either way, he was on top of the hood, and then when the S.U.V. took off, he just rolled over the hood and fell off." The SUV left the area and police arrived.

LBPD officer Kevin Skeen testified that he was near the area of the incident on patrol and he heard people screaming, tires screeching, and an engine revving. As he approached the area, a group of people were screaming and pointing toward a gas

station. Skeen saw a black Ford Explorer accelerate toward him, driving down the wrong side of the street. Witnesses told the officer that the driver of the Explorer was drunk and had run over a pedestrian. The Explorer suddenly stopped partway through an intersection, and Skeen clearly saw that defendant was driving. Defendant leaned out of the car and said, "What? What?" with slurred speech. Her face was flushed, her eyes were watery, and she moved her head in a circular motion, suggesting that she was intoxicated. Skeen noticed that the Explorer had body damage and "there was some debris hanging" from under the front passenger area.

Skeen told defendant to put the vehicle in park and get out of the car. Defendant responded, "Fuck you," and accelerated with screeching tires. Skeen opined that defendant was driving in an unsafe manner. Skeen activated his lights and siren and followed defendant; she continued driving, failing to stop at multiple stop signs and swerving through multiple lanes. Pedestrians in the roadway had to run to get out of the way of defendant's car. Defendant drove through two intersections with red lights without braking. She drove onto the northbound 710 freeway and increased her speed. Defendant wove in and out of traffic, traveling 70 to 90 miles per hour, until she rear-ended another car, disabling both vehicles. Skeen characterized defendant's driving as dangerous and reckless.

After the collision, Skeen approached defendant's car and smelled alcohol. Defendant's speech was slurred and she was not able to walk. Skeen opined that defendant was displaying symptoms of alcohol intoxication. Defendant was transported from the scene by ambulance.

LBPD officer Amanda Akanin testified that she responded to the scene of the accident on the 710 freeway. The Ford Explorer had front end damage, as well as damage to the rear and sides of the vehicle; “there was shattered glass everywhere” and the airbags had deployed. The Explorer was facing against the direction of traffic. Defendant was in the driver’s seat. Defendant was unable to get out of the car on her own, and after officers helped her out, she was unable to walk or stand on her own. Defendant was “extremely incoherent,” with slurred speech and a strong odor of alcohol. Akanin testified that defendant appeared to be under the influence of alcohol. Akanin testified that defendant was transported to the hospital. Defendant’s blood was drawn at 4:58 a.m., and it was booked into evidence. Long Beach criminalist Gregory Gossage testified that testing revealed that defendant’s blood alcohol content was .22 percent.

LBPD sergeant Stephanie Hall testified that she responded to the traffic collision near the Fabulous West bar. A man with visible injuries was lying in the street. The man had “bruising on his head, a big old lump, some bleeding, as well as what looked like tire tracks on his jeans or on his pants.” An ambulance took the man from the scene. There was also a wheelchair at the scene, and “debris from taillights, normal traffic collision damage.”

LBPD officer Gabriel Doby testified that he viewed surveillance video from a truck and auto body company near the Fabulous West bar. In the video, Doby saw a dark SUV travel through an intersection without stopping at the stop sign, make a U-turn, collide with a dark-colored van, travel through the intersection again without stopping at the stop sign, strike a tanker truck, continue traveling, and collide with another truck

parked in a parking lot. The SUV then “slowly began to drive forward,” and Doby “observed what appeared to be a male body emerge from underneath the vehicle.” The SUV left the scene when police appeared.

The defense rested without introducing evidence. The court instructed the jury and neither party objected to the jury instructions. The jury found defendant guilty on all six counts, and found true the great bodily injury allegations on counts 1, 2, and 3. The court sentenced defendant to eight years and eight months in state prison, calculated as follows: on count 1, the upper term of four years as the base term, plus three years for the great bodily injury enhancement under Penal Code section 12022.7; on count 2, four years, stayed pursuant to Penal Code section 654; on count 3, one year (one-third of the midterm) to run consecutive to count 1; on count 4, eight months (one-third of the midterm); on count 5, 180 days to run concurrent; and on count 6, 180 days to run concurrent. The court calculated defendant’s custody credits, and imposed various fines and fees. Defendant timely appealed.

WENDE REVIEW

On appeal, defendant’s appointed counsel filed a brief requesting that we independently review the record for error. (*Wende, supra*, 25 Cal.3d 436, 441.) We directed counsel to send the record and a copy of the brief to defendant, and notified defendant of her right to respond within 30 days. We have received no response.

We have examined the entire record, and are satisfied no arguable issues exist in the appeal before us. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 110; *Wende, supra*, 25 Cal.3d at p. 443.)

DISPOSITION

The judgment is affirmed.

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COLLINS, J.

We concur:

WILLHITE, ACTING P.J.

MICON, J.*

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