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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

RICHARD WILLIAM KOLLIN,

Defendant and Appellant.

B286875

Los Angeles County
Super. Ct. No. MA065929

APPEAL from an order of the Superior Court of
Los Angeles County, Mark Hanasono, Judge. Affirmed.

David Cohen, under appointment by the Court of Appeal,
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

The trial court revoked Richard William Kollin's probation. He appeals, and we affirm.

The information in this case, filed June 1, 2015, charged Kollin with 15 felony counts of possessing firearms as a felon with one prior (Pen. Code,¹ § 29800, subd. (a)(1)); one misdemeanor count of possession of ammunition (§ 30305, subd. (a)(1)); one count of possession of shuriken² (§ 22410); one misdemeanor count of possession of a switchblade knife in a motor vehicle (§ 21510, subd. (a)); and two counts of possession of an assault weapon (§ 30605, subd. (a)). The information alleged Kollin committed the offenses on or about May 2, 2015. Kollin pleaded not guilty.

On October 5, 2015, Kollin withdrew his not guilty plea to the first six counts of felon in possession (counts 1-6) and to one count of possession of an assault weapon (count 19), and pleaded no contest to those counts. The remaining counts were dismissed. On November 2, 2015, the trial court sentenced Kollin to seven years in prison, suspended execution, and placed Kollin on probation for five years, with a condition that Kollin not own, use, or possess any firearms or other dangerous or deadly weapons.

Nearly two years later, on October 5, 2017, the court held a hearing to determine whether Kollin had violated his probation in this case, as well as in another case on which he also was on probation, No. MA067893. The court first conducted a preliminary hearing in the new case, No. MA072239, which served as the basis for the violation of probation. Mario Ocampo

¹ All subsequent statutory references are to the Penal Code.

² A shuriken is a knife without handles designed as a weapon for throwing. (§ 17200.)

testified he bought a car at public auction in August 2017, and found personal property inside, including business cards for septic tank work. Ocampo called Kollin, whose name was on the card, to ask whether he wanted his property back. He met with Kollin, who drove his septic tank work truck. Ocampo felt sorry for Kollin, and agreed to return Kollin's car to him in exchange for some septic tank work. Kollin asked him whether the spare tire was still in the car. Ocampo went home and, while cleaning out the car trunk, near where the spare tire was kept, he found a garbage bag containing a gun, boxes of ammunition, and something that looked like a hand grenade. He called the sheriff just as Kollin texted him to say he was on his way. The police told Ocampo to close the trunk. Ocampo went inside the house, and saw Kollin pull up before the deputies arrived. A sheriff's deputy confirmed that the hand grenade was not operable. Records showed Kollin purchased the gun from its registered owner.

Kollin's counsel argued that the preliminary hearing did not contain sufficient evidence that Kollin knew the gun was in the car, and Kollin therefore was not in violation of his probation. The prosecutor responded that Kollin asked about the spare tire (near where the gun was found) and then showed up without invitation at Ocampo's house to get the car back, which, with the registration information, pointed to Kollin's knowledge that the gun was in the car. The trial court found Kollin was in violation, and revoked his probation in this case, executing the suspended seven-year sentence, with custody credits and fines. Kollin appealed.

We appointed counsel to represent Kollin on appeal. After examining the record, counsel filed an opening brief raising no

issues and asking this court to review the record independently. We advised Kollin he had 30 days to submit personally any issues he wished us to consider.

Kollin filed a brief stating: “I Richard Kollin never violated my 7 year suspended sentence case # MA065929.” He points to a hearing on December 7, 2016 (while he was on probation in this case) at which a customer testified that in April 2015 he paid Kollin a \$1,800 deposit to replace a septic tank. Kollin never did the work and never returned the deposit. A representative from the state contractor license board testified that Kollin should have been licensed as a contractor. The court declined to revoke Kollin’s probation in this case, because the events around the deposit occurred before the information in this case was filed and before Kollin was placed on probation. The December 2016 hearing is not relevant to the October 2017 revocation of probation at issue on this appeal.

Kollin also contends that the court dismissed the case involving the weapons found in the car trunk, No. MA072239, “so then there would not be any kind of violation of probation.” At the hearing on October 5, 2017, the court denied the defense motion to dismiss No. MA072239, and found Kollin in violation of his probation in this case. The court then asked the prosecution how it wished to proceed on No. MA072239, the prosecution moved to dismiss the case, and the court granted the prosecution’s motion to dismiss under section 1385. As the court stated at the sentencing hearing on October 19, 2017, the probation report was made “under the mistaken impression that the case of MA072239 was dismissed outright without a finding of a violation on [this case].” Kollin also is under the mistaken impression that the court dismissed No. MA072239 outright

before finding him in violation of his probation based on the facts of that case. Instead, the trial court found him in violation of his probation in this case, and then dismissed No. MA072239 in the interest of justice.

Kollin contends he did not violate his probation at any time, he was set up by the police, and Ocampo's testimony was not true. The standard of proof required to revoke probation is a preponderance of evidence to support the violation. (*People v. Kelly* (2007) 154 Cal.App.4th 961, 965.) We review the trial court's decision to revoke Kollin's probation for substantial evidence, according great deference to the trial court's decision. (*People v. Urke* (2011) 197 Cal.App.4th 766, 773.) We also do not reweigh the evidence or determine the credibility of witnesses on appeal. (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206-1207.) Ocampo's testimony at the October 5, 2017 hearing is substantial evidence to support the court's finding that Kollin violated his probation conditions when he possessed the weapons in his car trunk. We see no abuse of discretion to justify disturbing the trial court's revocation of Kollin's probation. (*People v. Self* (1991) 233 Cal.App.3d 414, 417.)

We have examined the entire record, and we are satisfied that Kollin's counsel has fully complied with his responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109-110; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

DISPOSITION

The order revoking Richard William Kollin's probation and executing his seven-year suspended sentence is affirmed.

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EGERTON, J.

We concur:

EDMON, P. J.

LAVIN, J.