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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.

LEVARE SAYLOR,

Defendant and Appellant.

B235147

(Los Angeles County
Super. Ct. No. TA116374)

APPEAL from a judgment of the Superior Court of Los Angeles County, Gary R. Hahn, Judge. Affirmed.

Pamela J. Voich, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Victoria B. Wilson and Kim Aarons, Deputy Attorneys General, for Plaintiff and Respondent.

Following his February 2011 no contest plea to inflicting corporal injury upon a spouse or cohabitant (Pen. Code, § 273.5, subd. (a)),¹ defendant and appellant Levaré Saylor was placed on probation. After Saylor was arrested for vehicle theft, his probation was revoked and he was sentenced to a term of five years in prison. He contends the trial court abused its discretion by revoking probation, because insufficient evidence supported the finding he violated Vehicle Code section 10851. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. *Saylor's domestic violence conviction.*²

On January 22, 2011, Saylor approached his former girlfriend, Michelle Maudlin, as she was entering a Los Angeles liquor store located across the street from his residence. Saylor argued with Maudlin and followed her into the store. He pushed her into a refrigerator and punched her with a closed fist, causing her to fall to the ground. The incident was captured by the store's video surveillance system.

Saylor was arrested and charged with, inter alia, inflicting corporal injury upon a spouse or cohabitant (§ 273.5, subd. (a)). He pled no contest to that charge and admitted suffering a prior conviction of the same offense within the preceding seven years. (§ 273.5, subd. (e)(1).) The trial court suspended imposition of a five-year prison term and placed Saylor on probation for five years, on condition he serve 120 days in jail. Another probation condition required that Saylor “[o]bey all laws and orders of the court.”

2. *June 2011 violation of Vehicle Code section 10851.*

On June 7, 2011, the trial court summarily revoked probation after Saylor was arrested for, and charged with, vehicle theft (L.A. County Super. Ct. Case No. TA118420). On August 1, 2011, the court conducted a probation revocation hearing

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

² Because Saylor pleaded no contest, we glean the facts from the probation report.

in conjunction with the preliminary hearing in case No. TA118420. The following evidence was adduced.

On the evening of June 3, 2011, Los Angeles Police Detective Brandon Browning and Los Angeles County Sheriff's deputies were conducting a "bait car operation" for the Task Force for Regional Auto Theft Prevention ("TRAP"). At approximately 8:00 p.m., two female undercover deputies left a 2008 Honda Civic "bait car" parked, unlocked, and running, with a door slightly ajar, on Figueroa Street in Los Angeles. The Civic was equipped with hidden video and audio recorders, as well as a remote control ignition switch that permitted deputies to shut off the engine from a remote location and lock the occupant or occupants inside.

Shortly after the undercover deputies walked away from the car, Saylor approached the Civic. He informed an unidentified person that he was going to close the Civic's door. He did so and walked away. Five to ten minutes later, he returned to the car, entered on the driver's side, and drove off. Undercover deputies followed him for approximately three to four blocks before using the remote control to turn off the car and lock him inside.

At the revocation hearing, Saylor contended that the car had been parked in a "red tow away zone." He informed police at the scene that he was simply a good Samaritan performing a "civi[c] duty by taking the car to the police station and taking the car around to [his] aunt's [house] to call the police" He argued that he had not intended to "commit a public offense" but made a "bad mistake" and a "bad error in judgment."

The court found the evidence established probable cause to support the charges in the vehicle theft case and to establish Saylor was in violation of probation. The court opined that Saylor was not credible. It terminated probation and imposed the previously suspended sentence of five years in prison on the domestic violence case,³ as well as various fines and fees. Saylor appeals.

³ The prosecutor advised the court that the charges in the vehicle theft case, No. TA118420, would be dismissed.

DISCUSSION

Sufficient evidence supported the trial court's finding Saylor was in violation of probation; there was no abuse of discretion.

Saylor contends the trial court abused its discretion by revoking his probation because insufficient evidence supported the finding that he drove or took a vehicle in violation of Vehicle Code section 10851, subdivision (a). This contention lacks merit.

A court may revoke probation “if the interests of justice so require and the court, in its judgment, has reason to believe from the report of the probation officer or otherwise that the person has violated any of the conditions of his or her probation” (§ 1203.2, subd. (a); *People v. Galvan* (2007) 155 Cal.App.4th 978, 981; *People v. Stanphill* (2009) 170 Cal.App.4th 61, 72.) The facts supporting revocation of probation may be proved by a preponderance of the evidence. (*People v. Rodriguez* (1990) 51 Cal.3d 437, 439; *People v. O'Connell* (2003) 107 Cal.App.4th 1062, 1066; *People v. Galvan, supra*, at p. 982; *People v. Kelly* (2007) 154 Cal.App.4th 961, 965.) We apply the substantial evidence standard when reviewing a trial court's finding on a probation violation. (*People v. Kurey* (2001) 88 Cal.App.4th 840, 848-849.) We review the entire record in the light most favorable to the judgment and presume in support of the judgment every fact that the trier of fact could have reasonably deduced from the evidence. (*People v. Livingston* (Apr. 26, 2012, S090499) __ Cal.4th __ [2012 Cal. LEXIS 3821, *48].) “ ‘A reviewing court neither reweighs evidence nor reevaluates a witness's credibility.’ ” (*People v. Albillar* (2010) 51 Cal.4th 47, 60.) Trial courts have great discretion in deciding whether or not to revoke probation. (*People v. Rodriguez, supra*, at p. 443; *People v. Kelly, supra*, at p. 965; *People v. Galvan, supra*, at pp. 981-982.) Absent abuse of that discretion, we will not disturb the trial court's findings. (*People v. Rodriguez, supra*, at p. 443; *People v. Kelly, supra*, at p. 965.)

To establish a violation of Vehicle Code section 10851, subdivision (a), the prosecution is required to prove that the defendant drove or took a vehicle belonging to another person, without the owner's consent, and that the defendant had the specific intent to permanently or temporarily deprive the owner of title or possession. (*People v.*

O'Dell (2007) 153 Cal.App.4th 1569, 1574; see also *People v. Garza* (2005) 35 Cal.4th 866, 875-876.) Vehicle Code section 10851 “ ‘proscribes a wide range of conduct.’ [Citation.] A person can violate section 10851(a) ‘either by taking a vehicle with the intent to steal it or by driving it with the intent only to temporarily deprive its owner of possession (i.e., joyriding).’ [Citations.]” (*People v. Garza, supra*, at p. 876.)

There was ample evidence supporting the trial court’s finding that Saylor violated Vehicle Code section 10851. The videotape showed, and Saylor admitted, that he drove the Civic without the owner’s consent. Contrary to his argument, the evidence also was sufficient to establish he had the specific intent to permanently or temporarily deprive the owner of possession. Detective Browning testified that Saylor drove the Civic for three or four blocks before he was stopped; Browning’s testimony was corroborated by the vehicle’s videotape system. A reasonable trier of fact could readily infer Saylor’s intent by virtue of his highly unusual actions of entering and driving off in a complete stranger’s vehicle. The trial court was entitled to infer that such conduct was, as a matter of common sense and common experience, far more consistent with the intent to steal than with the innocent explanation advanced by Saylor. As the trial court reasoned, had Saylor intended to simply move the car to a legal parking spot, certainly he could have parked in a nearby motel lot or elsewhere nearby. Further, nothing suggested an emergency situation that might have explained Saylor’s unusual conduct: the car was not blocking traffic or endangering pedestrians or other persons. The court was entitled to disbelieve Saylor’s account that he was merely a good Samaritan moving what he believed to be an abandoned vehicle. (See generally *People v. Mar* (2002) 28 Cal.4th 1201, 1224 [trier of fact not obliged to adopt defendant’s self-serving version of events].) That there was no direct evidence of Saylor’s intent is irrelevant; such was not required. “Mental state and intent are rarely susceptible of direct proof and must therefore be proven circumstantially.” (*People v. Thomas* (2011) 52 Cal.4th 336, 355; see also *People v. O’Dell, supra*, 153 Cal.App.4th at p. 1577.)

In sum, Saylor's argument amounts to a request that this court reweigh the evidence, which is not our function. (*People v. Young* (2005) 34 Cal.4th 1149, 1181; *People v. Maury* (2003) 30 Cal.4th 342, 403; *People v. Mejia* (2007) 155 Cal.App.4th 86, 98.) We resolve neither credibility issues nor evidentiary conflicts; that is the exclusive province of the trier of fact. (*People v. Young, supra*, at p. 1181.) Because substantial evidence supported the trial court's determination, the fact that the evidence might conceivably have been reconciled with a contrary finding does not warrant a reversal. (*People v. Livingston, supra*, __ Cal.4th at p. __ [2012 Cal. LEXIS 3821 at pp. *48-49]; *People v. Martinez* (2008) 158 Cal.App.4th 1324, 1331.) The trial court's ruling was neither arbitrary nor capricious, and no abuse of discretion is apparent.

DISPOSITION

The judgment is affirmed.

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ALDRICH, J.

We concur:

KLEIN, P. J.

KITCHING, J.