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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.

ARTIS WILSON,

Defendant and Appellant.

B281512

(Los Angeles County
Super. Ct. No. BA445318)

APPEAL from a judgment of the Superior Court of Los Angeles County, Dorothy B. Reyes, Judge. Affirmed as modified.

Stephanie L. Gunther, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Shawn McGahey Webb and Abtin Amir, Deputy Attorneys General, for Plaintiff and Respondent.

Artis Wilson appeals from the judgment entered after his no contest plea to a violation of Health and Safety Code, section 11352, subdivision (a).¹ He challenges the sentencing enhancements imposed for three prior drug convictions under former section 11370.2. Respondent concedes that the enhancements were abolished by Senate Bill No. 180 (2017-2018 Reg. Sess.) and should be stricken. We agree and order the judgment modified accordingly.

FACTUAL AND PROCEDURAL SUMMARY

In 2016, appellant pled no contest to sale of a controlled substance and admitted having six prior drug convictions. He was sentenced to three years for the current offense, plus consecutive three-year sentences for each of three drug-prior enhancements under section 11370.2. Execution was suspended pending three years of probation. In 2017, after appellant repeatedly violated the terms of his probation, the court terminated it and sentenced him to 12 years in prison, with 386 days of credit for time served. This appeal followed.

DISCUSSION

At the time of appellant's conviction and sentencing, section 11370.2, subdivision (a), required the imposition of a consecutive three-year term for each prior felony conviction of a violation of section 11352. Senate Bill No. 180, which became effective on January 1, 2018, abolished all enhancements for previous drug convictions except for a prior conviction under section 11380 (using minor as agent). (§ 11370.2, as amended by Stats. 2017, ch. 677, § 1.)

¹ Statutory references are to the Health and Safety Code.

We agree with the parties that this reduction in punishment applies retroactively to appellant. Absent some indication to the contrary in the bill, the Legislature is presumed to have intended amendments reducing the punishment for a crime to apply retroactively in cases which are not yet final. (*People v. Brown* (2012) 54 Cal.4th 314, 323–324; *In re Estrada* (1965) 63 Cal.2d 740, 742–748.) The rule applies to sentencing enhancements as well. (*People v. Nasalga* (1996) 12 Cal.4th 784, 792.) Senate Bill No. 180 abolished the sentencing enhancements imposed in this case, and nothing indicates the Legislature intended the abolition of those enhancements to be applied only prospectively. Since appellant’s conviction is not yet final, the enhancements must be stricken. Because no fact finding is required by the trial court in order to strike the enhancements, there is no need to remand for resentencing. (*Nasalga*, at p. 798.) Therefore, we order the enhancements stricken.

DISPOSITION

The sentencing enhancements under former section 11370.2, subdivision (a), are ordered stricken. The judgment is affirmed as modified. The trial court is directed to prepare an amended abstract of judgment reflecting the modification and forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

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EPSTEIN, P. J.

We concur:

MANELLA, J.

COLLINS, J.