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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

LIDERATO CARLOS BELTRAN,

Defendant and Appellant.

B277236

(Los Angeles County
Super. Ct. No. BA157140)

APPEAL from a judgment of the Superior Court of Los Angeles County, William C. Ryan, Judge. Affirmed.

Jonathan B. Steiner and Richard B. Lennon, under appointment by the Court of Appeal, for Plaintiff and Appellant.

No appearance for Plaintiff and Respondent.

In 1998, the Los Angeles County District Attorney charged defendant with (1) evading a pursuing police officer causing death or serious bodily injury (Veh. Code, § 2800.3), (2) possession of cocaine base for sale (Health & Saf. Code, § 11351.5), and (3) vehicular manslaughter (Pen. Code, § 192(c)(1)).¹ The charges were predicated on evidence defendant fled in a car he was driving from two police officers who were attempting to conduct a traffic stop. During the ensuing police chase, defendant drove through numerous stop signs and eventually collided with another car at an intersection. The two occupants of that car suffered serious injuries as a result of the collision: the driver was knocked unconscious and died a month later, and the passenger suffered lacerations to her face which caused heavy bleeding.

The charges were tried to a jury in 1999. The jury found defendant guilty of vehicular manslaughter and evading a police officer causing injury.² The jury also found true certain enhancement allegations alleged in the information against defendant, namely, that he personally inflicted great bodily injury in the commission of the evading an officer offense (§ 12022.7(c)) and that he had suffered two prior felony convictions within the meaning of sections 667(b)-(i) and 1170.12 (commonly referred to as the “Three Strikes law”). The trial

¹ Undesignated statutory references that follow are to the Penal Code.

² The jury did not reach a verdict on the possession of cocaine base for sale charge, and it was later dismissed.

court ultimately sentenced defendant to two concurrent terms of 25 years to life in prison.³

Years later, in 2013, defendant petitioned for recall of his sentence under section 1170.126, which was enacted in 2012 as part of Proposition 36, the Three Strikes Reform Act. The District Attorney opposed the petition, arguing defendant was ineligible for relief under section 1170.126, subdivision (b) because the commitment offenses of vehicular manslaughter and evading a police officer constituted serious felonies.

The trial court held an eligibility hearing in August 2016. After hearing argument from both sides, the trial court found defendant “personally inflicted serious bodily injury” on the victim when he collided with the other car, causing the death of one of the occupants. As a result, the court found both of the offenses that triggered the Three Strikes law sentence to be serious felonies as described in section 1192.8(a). The trial court concluded defendant was ineligible for relief under section 1170.126(e)(1) and denied the petition.

We appointed counsel to represent defendant. After examining the record, counsel filed an opening brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 that raises no issues. On

³ This is the sentence the trial court imposed upon remand after defendant’s appeal of his convictions and sentence. In our opinion deciding that appeal, we affirmed defendant’s convictions but held resentencing was required because the trial court incorrectly imposed a ten-year prison term for the infliction of great bodily injury enhancement. (*People v. Beltran* (2000) 82 Cal.App.4th 693, 697 [enhancement inapplicable because proof of serious or great bodily injury is an element of the Vehicle Code section 2800.3 offense].)

December 6, 2016, this court advised defendant he had 30 days to personally submit any contentions or issues he wished us to consider. We received no response.

We have examined the record and are satisfied defendant's attorney on appeal has complied with the responsibilities of counsel and no arguable issue exists. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-82; *People v. Kelly* (2006) 40 Cal.4th 106, 122-24; *Wende*, 25 Cal.3d at 441.)

DISPOSITION

The trial court's judgment is affirmed.

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BAKER, J.

We concur:

KRIEGLER, Acting P.J.

KIN, J.*

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