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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

DOMINIC E. WILLIAMS,

Defendant and Appellant.

B253319

(Los Angeles County
Super. Ct. No. BA395868)

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

Marta I. Stanton, 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, Senior Assistant Attorney General, Victoria B. Wilson, Supervising Deputy Attorney General, and Lindsay Boyd, Deputy Attorney General, for Plaintiff and Respondent.

* * * * *

A jury convicted Dominic Williams (defendant) of first degree burglary, and the trial court sentenced him to 13 years in state prison. On appeal, he argues that the trial court abused its discretion in denying his motion to strike his 2011 conviction for robbery, which qualifies as a strike under our “Three Strikes” law (Pen. Code, §§ 667, subds. (b)-(j) & 1170.12, subds. (a)-(d)).¹ We reject this argument, and affirm his conviction and sentence.

FACTS AND PROCEDURAL BACKGROUND

I. Facts

On March 30, 2012, defendant walked into a house that was under construction and took an Apple MacBook laptop computer, power cord, and carrying case from one of the bedrooms. Construction workers were in the house when defendant entered. Defendant was on parole at the time.

When defendant tried to enter the house again a few days later, he was confronted by construction workers at the house; they tailed him and flagged down police.

Defendant was arrested. A search of defendant’s bedroom turned up the laptop’s carrying case, which still contained a luggage tag bearing the owner’s name; the laptop and cord were never recovered. In a postarrest statement, defendant told police that he had received the laptop case as a gift four days *before* it was stolen; when confronted with this logical impossibility and the fact that the laptop’s owner was a Catholic priest, defendant responded, “Well, only God can judge me.”

II. Procedural Background

The People charged defendant with first degree burglary with a person present (§§ 459 & 460, subd. (a)). The People further alleged that defendant’s October 2011 conviction for robbery (§ 211) constituted a strike within the meaning of our

¹ All further statutory references are to the Penal Code unless otherwise indicated.

Three Strikes law, as well as a prior serious felony (§ 667, subd. (a)).

The matter proceeded to trial by jury, and the jury found defendant guilty. Defendant thereafter admitted his prior felony conviction.

Prior to sentencing, defendant moved the court to strike (that is, to dismiss) his 2011 prior strike conviction. Specifically, defendant argued that he was outside the spirit of the Three Strikes law because (1) his prior robbery conviction was more akin to a “grand theft of a person” “rather than a robbery”; (2) he had a “mental disorder” arising from a 2009 head injury, which has manifested itself in “odd comments” (such as calling a prior judge his “perfect master,” asking the judge for money, declaring his love for a prior public defender, accusing his mother of killing his grandmother, and believing that he was a gang member due to a photograph of himself as an infant throwing what he perceived to be a gang sign) and unusual behavior (such as sleeping on the floor, pacing around the house, sitting on the roof). As proof of these facts, defendant relied upon the trial testimony of his mother and himself as well as declarations from his mother, his counsel, a person from the National Alliance on Mental Illness indicating that defendant had “a mental illness related psychosis,” and two instructors at a religious school.

In an oral ruling from the bench and a subsequently entered written order, the trial court denied defendant’s motion. The court recognized its task was to decide if defendant fell “outside the . . . spirit of the Three Strikes law,” and proceeded to evaluate (1) the “nature and circumstances” of defendant’s prior strike, (2) the “nature and circumstances” of the conviction in this case, and (3) the defendant’s background, character, and prospects. The court noted that defendant’s 2011 robbery conviction was “remote in time.” Although the robbery conviction

was based on defendant's conduct in walking into a bakery and "snatching" an envelope containing \$65, the court considered the robbery to be "grav[e]" because the sentencing court denied probation and imposed prison time. What is more, notwithstanding defendant's "relative you[th]," the robbery was part of a "pattern of predatory criminal activity" that was of "increasing seriousness" even though defendant had been imprisoned and placed on parole. Next, the court noted that the current burglary involved no "aggravating factors" because defendant was unarmed and did not "confront" or "hurt" anyone, but observed that "first degree burglary" in its basic form is still "inherently dangerous" and "terrifying." Lastly, the court examined defendant's background, character, and prospects. The court noted that defendant was "troubled," but that his mental illness was "not a legal defense" to the charged crime and did not in any event show that defendant was "troubled to the extent that it's an especially mitigating circumstance." The court found defendant's family circumstances to "cut[] both ways" because defendant committed his crimes *despite* having a "supportive family," indicating that his future "prospects" were not good.

The court sentenced defendant to 13 years in state prison. The court imposed a base sentence of eight years (four years, doubled due to the prior strike), plus an additional five years for the prior serious felony conviction.

Defendant filed this timely appeal.

DISCUSSION

Defendant argues that the trial court erred in denying his motion to strike the allegation that his 2011 robbery conviction constitutes a strike within the meaning of our Three Strikes law.

A trial court has the discretion to grant a motion to dismiss a strike allegation. (§ 1385, subd. (a); *People v. Williams* (1998) 17 Cal.4th 148, 162.) In deciding whether to exercise that

discretion, the court is to “consider whether, in light of the nature and circumstances of [the defendant’s] present felonies and prior serious and/or violent felony convictions, and the particulars of his background, character, and prospects, the defendant may be deemed outside the [Three Strikes] scheme’s spirit, in whole or in part, and hence should be treated as though he had not previously been convicted of one or more serious and/or violent felonies.” (*People v. Carmony* (2004) 33 Cal.4th 367, 377 (*Carmony*).)

We review a trial court’s denial of such a motion for an abuse of discretion. (*Carmony, supra*, 33 Cal.4th at p. 373.) Where the record demonstrates that the trial court balanced the relevant factors and reached an impartial decision in conformity with the spirit of the law, we shall affirm the court’s ruling, even if we might have ruled differently in the first instance. (*People v. Myers* (1999) 69 Cal.App.4th 305, 310 (*Myers*).)

The trial court did not abuse its discretion in denying defendant’s motion. The court applied the correct legal standard, considered defendant’s arguments, and thoughtfully exercised its discretion in denying the motion.

On appeal, defendant urges that the trial court erred because it did not give sufficient weight to the minor nature of his 2011 robbery conviction, to the absence of aggravating factors underlying the current crime, to his mental illness, to his supportive family, or his young age, or to the fact that he would still serve a nine-year sentence without the strike. Because the trial court considered all of these factors, defendant is effectively asking us to reweigh these factors and come to a different conclusion. This we cannot do. (*Myers, supra*, 69 Cal.App.4th at pp. 309-310 [“It is not enough to show that reasonable people might disagree about whether to strike one or more of [a defendant’s] prior convictions”].)

Defendant also cites *People v. Banks* (1997) 59 Cal.App.4th 20, *In re Saldana* (1997) 57 Cal.App.4th 620, and *People v. Bishop* (1997) 56 Cal.App.4th 1245. But all three cases are distinguishable: *Banks* reversed the denial of a motion to strike because the trial court misunderstood that it had discretion to grant relief (*Banks*, at pp. 23-24), and *In re Saldana* and *Bishop* affirmed the grant of a motion to strike (*In re Saldana*, at pp. 626-627; *Bishop*, at pp. 1248-1251). If anything, these cases emphasize the limited nature of our review when a trial court exercises its discretion. Given those limits, we have no basis to disturb the court's ruling in this case.

DISPOSITION

The judgment is affirmed.

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_____, J.
HOFFSTADT

We concur:

_____, Acting P. J.
ASHMANN-GERST

_____, J.
CHAVEZ