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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM ROBERT GOODFELLOW,

Defendant and Appellant.

2d Crim. No. B286235
(Super. Ct. No. 2014014984)
(Ventura County)

William Robert Goodfellow appeals a judgment following his guilty plea to second degree commercial burglary, a felony (Pen. Code, § 459),¹ and two counts of identity theft (§ 530.5, subd. (a)). Because of his prior convictions, he fell within the purview of the three strikes law. The trial court sentenced him to an aggregate six years eight months in state prison. We conclude, among other things, that the trial court did not abuse its discretion by denying Goodfellow’s “motion to strike priors.”

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

(*People v. Superior Court (Romero)*) (1996) 13 Cal.4th 497
(*Romero*).) We affirm.

FACTS

Between May 5 and May 6, 2014, Goodfellow entered the Bank of America to cash fraudulent checks from bank accounts belonging to other people.

On May 15, 2014, Goodfellow entered the bank again. He attempted to cash two additional fraudulent checks. Bank personnel called the police and Goodfellow was arrested. During a search, a police officer found a “plastic baggy” of methamphetamine from Goodfellow’s pants pocket.

On March 23, 2015, the People filed a felony information against Goodfellow alleging four counts of second degree commercial burglary (§ 459) (counts 1, 3, 5 and 8); four counts of forgery (§ 470, subd. (d)) (counts 2, 4, 6 and 9); two counts of identity theft (§ 530.5, subd. (a)) (counts 7 and 10); and one count of possession of a controlled substance (Health & Saf. Code, § 11377, subd. (a)) (count 11). The People also alleged Goodfellow suffered two prior strike convictions for criminal threats and dissuading a witness. (§§ 667, subd. (e)(2), 1170.12, subd. (c)(2).)

Goodfellow entered into a negotiated plea agreement. He pled guilty to counts 1, 7 and 10. The trial court set the case for sentencing.

Goodfellow filed a motion to strike priors. He requested the trial court exercise its discretion under *Romero* to strike “the prior felony allegations” involving his 2003 felony strike conviction for making criminal threats (§ 422) and his 2010 conviction for maliciously attempting to prevent or dissuade a witness from testifying (§ 136.1, subd. (a)(2)). He said, “Both cases involve domestic incidents, which are potentially volatile

situations that can result in a strike offense even when no one is physically harmed.”

The People filed an opposition requesting the trial court to deny the motion. They claimed Goodfellow’s criminal record showed that he was a “revolving door” criminal.

The trial court denied the motion. It found the “sentencing memorandum” and Goodfellow’s record do not “provide the Court what it considers to be a basis for striking the strikes.” During the sentencing hearing, the court also said that Goodfellow had “a substantial criminal history” and that there were no “factors in mitigation.”²

DISCUSSION

The Trial Court’s Decision Not To Strike Priors

Goodfellow contends the trial court abused its discretion in denying his *Romero* motion. We disagree.

A trial court “acting on its own motion” may “strike prior felony conviction allegations in cases brought under the Three Strikes law.” (*Romero, supra*, 13 Cal.4th at pp. 529-530.) In exercising its discretion, the court considers a variety of factors, including the “‘defendant’s background,’ ‘the nature of his present offenses,’ and other ‘individualized considerations.’” (*Id.* at p. 531.) It considers the defendant’s “prospects” and “character,” along with the current and prior criminal record, to determine whether he or she falls within or outside the spirit of the three strikes law. (*People v. Williams* (1998) 17 Cal.4th 148, 161.)

The defendant has the burden to show an abuse of discretion. In the absence of such showing, the trial court is

² Goodfellow contends the People are improperly citing to the amended report of the probation officer filed September 22, 2017, which is not part of the record on appeal. It is.

“presumed to have acted to achieve legitimate sentencing objectives.” (*People v. Carmony* (2004) 33 Cal.4th 367, 376-377.)

Goodfellow contends his “entire history” shows that he falls outside the “purpose[s] of the Three Strikes law.” But the trial court considered his record, and it is significant. The probation department noted that Goodfellow “has a serious prior record including two prior strike convictions and prior prison terms.” It said, “Despite being supervised on Deferred Entry of Judgment, formal probation, and parole in the past, the defendant has continued to commit crimes and abuse drugs and alcohol.”

Goodfellow notes the two strike convictions occurred in 2003 and 2010. He claims they should be considered as remote convictions.

The People respond that these convictions were not isolated incidents in his criminal history because his record spans the time periods of 2001 to 2015. In their opposition to his motion, the People noted that, in 2001, Goodfellow was convicted of assault (§ 240) and vandalism (§ 594, former subd. (b)(4)). In 2002, he was convicted of violating a domestic violence court order. (§ 273.6, subd. (a).) In 2003, he was convicted of making criminal threats (§ 422), a felony, and willful infliction of corporal injury (§ 273.5, subd. (a)), a felony. In 2009, he was convicted of driving under the influence. (Veh. Code, § 23152, subd. (b).) In 2010, he was convicted of maliciously attempting to prevent or dissuade a witness from testifying (§ 136.1, subd. (a)(2)), a felony. His most recent offenses, committed in 2014, involve commercial burglary and identity theft. The People opposed his motion because they said his record showed he “is a revolving door criminal.” They also said several of his offenses involved violence.

The probation department said the facts relating to his 2003 felony convictions involved Goodfellow grabbing his girlfriend's head, hitting her head against a steering wheel, threatening to kill her and her father, and ramming his vehicle "into the driver side of her car." The probation officer reported that "[d]uring three occasions in . . . 2009, [Goodfellow] assaulted [his girlfriend] by throwing her against walls, burning her with a cigarette, and punching her in the ribs and head." It is Goodfellow's burden to show the trial court abused its discretion. (*People v. Carmony, supra*, 33 Cal.4th at pp. 376-377.) He has not made such a showing.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Michael S. Lief, Judge
Superior Court County of Ventura

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