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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

GARY MICHAEL BROOKS, JUNIOR,

Defendant and Appellant.

B280889

(Los Angeles County
Super. Ct. No. TA136645)

APPEAL from a judgment of the Superior Court of Los Angeles County, Patrick Connolly, Judge. Affirmed.

Juliana Drous, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury convicted Gary Michael Brooks of a felony hit and run driving resulting in death or serious injury to another person. (Veh. Code, § 20001, subd. (b)(2).) After the jury returned a guilty verdict, Brooks admitted he suffered a prior strike conviction within the meaning of Penal Code sections 667, subdivision (d), and 1170.12, subdivision (b).¹ The court sentenced Brooks to state prison for an aggregate term of six years, which consisted of the mid-term of three years for the hit and run offense, doubled for the prior strike. We affirm.

FACTS

The Crime

On February 26, 2015, Selwin Thomas Jefferson was crossing the street on his bicycle when he was struck by a car driven by Brooks. After striking Jefferson, Brooks drove away. Lakeia Jones witnessed the accident and followed Brooks's car as it turned onto a side street and stopped. She watched as Brooks exited the car, and a female passenger moved into the driver's seat and drove away. Brooks remained on the side street and did not return to the scene of the accident. Jones directed a responding police officer, Joseph Cha, to Brooks's location, which was about a block and a half from the scene of the accident. At the time of the accident, Brooks was on parole and did not have a driver's license.

A short while after the accident, Brooks's original passenger returned to the scene of the accident in the car that struck Jefferson. The vehicle had substantial damage to the windshield, front right side bumper, and hood.

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

Jefferson suffered multiple fractures to his right leg, ribs, pelvis, and spine, which required surgery. He also suffered a small injury to his brain, and had blood near his lungs and fluid around his spleen. As of November 21, 2016, Jefferson continued to suffer pain from the accident and had to use a cane to walk.

The Criminal Case

In May 2015, the People filed an information charging Brooks with a felony hit and run driving resulting in death or serious injury to another person (Veh. Code, § 20001, subd. (b)(2)), as well as a misdemeanor for driving a motor vehicle without a valid driver's license (Veh. Code, § 12500, subd. (a)). The People further alleged that Brooks had previously been convicted of robbery (§ 211), which is a serious felony per sections 667, subdivision (d), and 1170.12, subdivision (b). On the People's motion, the court dismissed the charge of driving without a license.

In November 2016, the charges against Brooks were tried to a jury. At that time, the prosecution presented evidence establishing the facts we have summarized above. The prosecution's witnesses were Jefferson, Jones, and Officer Cha. The prosecution also introduced a 911 call in which a witness reported that a male was driving the vehicle when it struck Jefferson. Brooks did not call any witnesses.

The jury returned a verdict finding Brooks guilty as charged. Brooks admitted to a prior conviction for robbery, and the trial court thereafter sentenced Brooks as noted above. The court awarded Brooks 482 days of custody credits and assessed a \$300 victim restitution fine (§ 1202.4, subd. (b)), a \$30 criminal conviction assessment fine (Gov. Code, § 70373), and a \$40 court operations fine (§ 1465.8, subd. (a)(1)). The court also assessed a

\$300 parole revocation restitution fine (§ 1202.45), but stayed the fine unless parole is revoked.

DISCUSSION

Brooks filed a timely notice of appeal, and we appointed counsel to represent him on appeal. Appointed counsel filed an opening brief on appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436, requesting independent review of the record on appeal for any arguable issues. We notified Brooks by letter that he could submit any argument or issues that he wished our court to review. Brooks has not filed any claims or arguments.

DISPOSITION

We have independently reviewed the record on appeal, and find that appointed counsel has fulfilled her duty, and that no arguable issues exist. (*Wende, supra*, 25 Cal.3d 436, *People v. Kelly* (2006) 40 Cal.4th 106.) The judgment is affirmed.

BIGELOW, P.J.

We concur:

RUBIN, J.

GRIMES, J.