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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

THE PEOPLE, Plaintiff and Respondent, v. RUSSELL PHILMLEE, Defendant and Appellant.	B277120 (Los Angeles County Super. Ct. No. LA077415)

APPEAL from a judgment of the Superior Court of Los Angeles County. Gregory A. Dohi, Judge. Affirmed.

Cynthia L. Barnes, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Shawn McGahey Webb and Heather B. Arambarri, Deputy Attorneys General, for Plaintiff and Respondent.

Defendant and appellant Russell Philmlee (defendant)[1] appeals from his assault convictions, contending that substantial evidence did not support the judgment, that the trial court erred in admitting evidence of his prior convictions of rape and forcible oral copulation, and that the trial court erred in permitting the prosecutor to impeach his credibility with his two prior convictions of failing to register as a sex offender. Finding defendant's contentions to be without merit or that any error was harmless, we affirm the judgment.

BACKGROUND

Defendant was charged by amended information in count 1, with assault with a deadly weapon, in violation of Penal Code section 245, subdivision (a)(1);[2] count 2, battery with serious bodily injury in violation of section 243, subdivision (d); and count 3, assault with intent to commit rape in violation of section 220, subdivision (a)(1).[3] The information further alleged: as to count 1 that defendant inflicted great bodily injury on the victim, Julie T. within the meaning of section 12022.7, subdivision (a); as to count 2, that defendant used a deadly weapon in the commission of the offense, within the meaning of section 12022, subdivision (b)(1); and as to count 3 that defendant personally used a deadly weapon in the commission of the offense, within the meaning of section 12022.3, subdivision (a), and inflicted great bodily injury

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[1] The information named defendant as Russell Walters, also known as Russell Philmlee, but defendant stipulated to his identity as Russell Philmlee, and the trial court's minutes all refer to defendant as Russell Philmlee.

[2] All further statutory references are to the Penal Code unless otherwise indicated.

[3] As counts 4 through 9 were dismissed prior to trial, we do not summarize those charges.

on the victim within the meaning of section 12022.8. The information also alleged that defendant had suffered three prior serious or violent felony convictions as defined in sections 667, subdivisions (d), and 1170.12, subdivision (b) (strikes under the "Three Strikes" law), and for purposes of section 667, subdivision (a)(1), and for purposes of section 667.5 that defendant had suffered one prior prison conviction.

A jury convicted defendant of all three counts as charged, found true the allegations that defendant inflicted great bodily injury on the victim, that he used a deadly weapon, and that he personally used a deadly weapon. Defendant waived a jury trial on the prior conviction allegations, and the trial court found true the three prior serious or violent felony convictions alleged as strikes and for purposes of the five-year enhancement under section 667, subdivision (a).

On August 18, 2016, the trial court denied defendant's motion to dismiss the strike allegations, and sentenced him to a term of 49 years to life in prison, comprised of 25 years to life for count 3, with a consecutive five years for the great bodily injury enhancement, a consecutive four years for the deadly weapon enhancement, and three consecutive five-year recidivist enhancements due to his prior convictions. The court imposed terms of 28 years to life as to count 1, and 26 years to life as to count 2, which included enhancements for the use of a deadly weapon and great bodily injury, and then stayed them pursuant to section 654. The court awarded 998 days of presentence custody credit, consisting of 868 actual days and 130 days of conduct credit, and ordered defendant to pay mandatory fines and fees.

Defendant filed a timely notice of appeal from the judgment.

Prosecution evidence

Julie T., who in April 2014 was homeless, testified that she bought a homemade bracelet from the man she identified as defendant, in front of a 99 Cents Store. They told each other they were homeless, and defendant told Julie he had more bracelets where he stayed, in a little room near the Orange Line. Julie retrieved her backpack, and the two took the bus to a stop near the Orange Line. Once there, Julie gave defendant money to buy alcohol at a nearby liquor store, and then went to the alcove in an abandoned building where defendant was staying. They drank. As Julie was asking about the bracelet, defendant suddenly turned toward her, punched her directly in the face, causing her to fall to her knees. Defendant continued hitting Julie, knocking the wind out of her. He then straddled her back, one leg on each side of her, and hit her on the back of her head, the side of her face, and her neck with what felt like an object. When Julie tried to defend herself with her hands, defendant hit her hands as well. Defendant grabbed Julie's pants, attempted to pull them down, causing a button to come off, and said, "I'm going to rape you." Julie recalled saying, "Stop. Stop," or "No. Stop." A woman appeared, asking, "What the hell's going on here?" Looking surprised, defendant jumped off Julie, grabbed her backpack, and ran. Julie ran to the bus stop and sat on the bench. A young man approached and offered to call 911 because Julie's head was bleeding badly. As the paramedics took Julie to the hospital by ambulance, her whole body was hurt, her head throbbed, and she felt very hot. Twenty-two staples were required to close her head wounds. Julie identified photographs of her face and hands taken that night. Her hands were swollen, and at the time of trial, continued to swell often and to feel numb. Julie was interviewed by the police and identified a photograph of her assailant from a six-pack photographic lineup.

Kathlyn Kelly (Kelly) testified that she too was homeless and in the area of the Orange Line bus stop, when she heard a woman saying "Help," and a muffled sound like the sound of fighting coming from a patio obscured by palm fronds. When Kelly pushed aside the fronds, she saw a large bald man she later identified as defendant, straddling a woman she later identified as Julie. Julie was face down, and defendant was sitting on her bottom or lower back, pushing her, and putting his hands in the air as though he was hitting her. When Kelly yelled, "What the fuck. Get the fuck off of her," defendant leaned back and looked at Kelly. As he did, Julie crawled out from under defendant's legs, and Kelly could see that her pants were down and she was covered in blood from head to toe. Kelly beckoned Julie to follow and they hurried to the Orange Line intersection. As the bus approached, Kelly saw that Julie was injured, and was struggling to pull up her pants. Kelly stepped onto the bus, which left before Julie could reach it. Kelly called 911. The recording of the 911 call was played for the jury. In the call, Kelly reported having seen a lady being raped, and that she was badly beaten and covered in blood from head to toe. Kelly gave the location and defendant's description.

Los Angeles Police Department (LAPD) Officer Andrew Dineen was sent to the area, arrested defendant where he slept, and recovered two jackets, a backpack, and a pair of pliers from inside the backpack. The jackets and pliers had what appeared to be blood on them. An LAPD criminalist testified that he swabbed the jackets and pliers, and sent the swabs for DNA testing. An LAPD DNA analyst who tested the samples testified that the DNA taken from the blood on the head of the pliers and one of the jackets matched Julie's DNA, and swabs from the other jacket contained defendant's DNA. The analyst found both

defendant's and Julie's DNA in the swabs of the handle of the pliers.

Defense evidence

When LAPD Detective Jennifer Hickman spoke to Julie at the hospital, Julie said she met a man near the Orange Line, went with him to buy a bottle of vodka, and afterward, he became upset, screamed unintelligently at her, and physically attacked her. During the attack, the man said "Okay. Julie, get ready," but Julie did not tell the detective that the man said, "I'm going to rape you."

Defendant testified that he was selling homemade bracelets in front of a 99 Cents Store, and Julie bought a bracelet from him. After suggesting that they have a drink, Julie bought a bottle of vodka. They sat at a nearby bus stop, drinking and talking for approximately an hour and a half. Julie told defendant she was homeless and asked where defendant was staying. She then retrieved her backpack, and returned to the 99 Cents Store about an hour later. The two took a bus to a stop near the Orange Line, bought more alcohol, and went to the building alcove where defendant was staying.

Defendant went to sleep, and when he woke up, he saw Julie leaving the alcove with her purse in one hand and the pole on which he kept all of his bracelets in the other hand. While still lying on the ground, he reached for the pole, but Julie hit him on the shoulder and then on the head with a pair of pliers. Defendant grabbed the pole with one hand and the pliers with the other, managing to get the pliers out of Julie's hand, but not the pole, so he hit her with the pliers, and kept hitting her until she fell to the ground and let go of the pole. Defendant, who was six feet tall and weighed 240 pounds, explained that that he continued to hit Julie after the pole was on the ground, because she continued to hit him and the bracelets were still in her hand.

He stopped hitting her when she stopped fighting him and he got his bracelets back. He testified, "She kicked me a couple of times. That didn't bother me. I just wanted my bracelets." Defendant claimed that his head bled where she had hit him with the pliers.

After about 30 to 45 minutes, as defendant and Julie were both lying down facing each other, defendant heard a person say something like "Hey, what are you guys doing?" Defendant told Julie to "Get lost. Get out of here." Julie grabbed her purse and left, and he went back to bed. Defendant claimed that he put the pliers in his backpack because he did not want her to come back and use them on him. Defendant denied ever having said, "Julie, get ready" or "I am going to rape you." After she left, he went to have a drink at a bar across the street. He then returned to the alcove and went to sleep until he was awakened by police.

Defendant admitted to the following convictions: forcible rape and forcible oral copulation in 1986; failing to register as a sex offender in 2006 and 2011; and petty theft in 2013.

Rebuttal

On rebuttal Officer Dineen testified that when he arrested defendant, defendant did not tell him that he had suffered any injuries, and Officer Dineen did not notice any injuries on defendant during the booking process.

DISCUSSION

I. Substantial evidence

Defendant contends that substantial evidence did not support his conviction of any of the three counts.

When a criminal conviction is challenged as lacking evidentiary support, "the court must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence -- that is, evidence which is reasonable, credible, and of solid value -- such that a reasonable trier of fact could find the defendant guilty beyond a

reasonable doubt." (*People v. Johnson* (1980) 26 Cal.3d 557, 578; see also *Jackson v. Virginia* (1979) 443 U.S. 307, 318-319.) However, "'it is the jury, not the appellate court which must be convinced of the defendant's guilt beyond a reasonable doubt. If the circumstances reasonably justify the trier of fact's findings, the opinion of the reviewing court that the circumstances might also reasonably be reconciled with a contrary finding does not warrant a reversal of the judgment. [Citations.]' [Citation.]" (*People v. Thomas* (1992) 2 Cal.4th 489, 514.) Thus, we do not reweigh the evidence; nor do we resolve credibility issues or evidentiary conflicts. (*People v. Young* (2005) 34 Cal.4th 1149, 1181.) We must presume in support of the judgment the existence of every fact the jury could reasonably deduce from the evidence. (*People v. Kraft* (2000) 23 Cal.4th 978, 1053.)

"[B]ecause 'we *must* begin with the presumption that the evidence . . . *was* sufficient,' it is defendant, as the appellant, who 'bears the burden of convincing us otherwise.' [Citation.]" (*People v. Hamlin* (2009) 170 Cal.App.4th 1412, 1430.) Reversal on a substantial evidence ground "is unwarranted unless it appears 'that upon no hypothesis whatever is there sufficient substantial evidence to support [the conviction].' [Citation.]" (*People v. Bolin* (1998) 18 Cal.4th 297, 331.)

Defendant does not challenge the sufficiency of the evidence to support a finding that the pair of pliers was a deadly weapon under the circumstances, or a finding that Julie suffered great bodily injury. Defendant contends only that the evidence was insufficient to prove that he did not act in self defense or in defense of his property, or to prove he acted with the intent to commit rape. We thus address only these three issues.

"'To justify an act of self-defense for [an assault charge under Penal Code section 245], the defendant must have an honest *and reasonable* belief that bodily injury is about to be

inflicted on him. [Citation.]' [Citations.]" (*People v. Minifie* (1996) 13 Cal.4th 1055, 1064-1065.) "'A person claiming self-defense is required to "prove his own frame of mind,". . . '" and he may do so with his own testimony or evidence of other relevant circumstances. (*Ibid.*) However, the jury is not required to believe his version of events. (See *People v. Casares* (2016) 62 Cal.4th 808, 846.) Here, the jury clearly did not believe defendant. Even if they had believed him, however, defendant never testified that he believed Julie was about to inflict great bodily injury upon him. Defendant testified that he woke up to find Julie leaving with his pole and bracelets and when he reached for the pole, Julie hit him on the shoulder and the head with a pair of pliers. He then grabbed the pliers out of her hand, and hit her with them five or six times *in order to get the pole from her*. He testified that he stopped hitting her *because* he got the pole back, and that it did not bother him when she kicked him. He explained: "I just wanted my bracelets." Defendant thus made clear that he assaulted Julie only to take back his property, not because he was in fear of bodily injury. As he failed to produce evidence of the required state of mind, the prosecutor was not required disprove a nonexistent theory of self-defense.

Defense of property may justify an assault with a deadly weapon, but defendant was entitled to use only that amount of force a reasonable person would find necessary for the protection of his property. (*People v. Teixeira* (1899) 123 Cal. 297, 298-299; *People v. Miller* (1946) 72 Cal.App.2d 602, 606.) The trial court so instructed the jury with CALCRIM No. 3476, which also informed the jury that the prosecution had the burden of proving beyond a reasonable doubt that the defendant used more force than was reasonable to protect property from imminent harm. Although defendant purports to acknowledge that the evidence

must be viewed in the light most favorable to the prosecution, he begins his argument by summarizing his own testimony.

Assuming that the jury resolved the issue of defendant's credibility against him, we find the prosecution's evidence more than sufficient to meet its burden. Julie testified that defendant straddled her, beat her with pliers until her head sustained injury which required 22 staples to close, and when she tried to defend herself with her hands, he hit her hands to the point of causing permanent occasional swelling and numbness. Kelly testified that she saw defendant sitting on Julie's back while she was lying face down, pushing her and raising his hands in a striking gesture, and soon afterward she saw Julie bloodied from head to toe. We conclude that substantial and compelling evidence established that even if Julie had been trying to steal the bracelets, no reasonable person would find it necessary to bludgeon Julie in the head with a deadly weapon while sitting on top of her as she lay face down on the ground.

Substantial evidence also supports a finding that defendant intended to rape Julie. Julie testified that defendant straddled her, beat her with pliers, attempted to pull down her pants so forcefully that a button came off, and said, "I'm going to rape you." Kelly's observations corroborated Julie's testimony. Kelly saw defendant sitting on Julie's back, and Julie bloodied from head to toe and struggling to pull up her pants.[4]

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[4] Defendant argues that Kelly's 911 statement that there was a rape in progress should be disregarded because her assessment was based on past experience. We assume the jury did not rely on Kelly's opinion, as the trial court told the jury to disregard Kelly's "sense of what kind of crime is going on," and to decide for themselves "what crime, if any, occurred." Nevertheless, the jury apparently believed Kelly's description of what she saw, which supports Julie's account.

Defendant argues that such evidence is insufficient because defendant denied Julie's account in his testimony, because Julie gave several inconsistent statements to law enforcement, and because there were internal conflicts in her testimony. He concludes that the evidence of an intent to rape was neither credible nor trustworthy.

Contrary to defendant's approach, the substantial evidence test does not ask "'whether there is substantial conflict, but rather whether there is *substantial evidence in favor of the respondent*. . . . [Citations.]' [Citation.]" (*In re Gustavo M.* (1989) 214 Cal.App.3d 1485, 1497.) "It is well settled that, absent physical impossibility or inherent improbability, the testimony of a single eyewitness is sufficient to support a criminal conviction. [Citation.] '"To warrant the rejection of the statements given by a witness who has been believed by a trial court, there must exist either a physical impossibility that they are true, or their falsity must be apparent without resorting to inferences or deductions. [Citations.] . . . [Citation.]"' [Citations.] Further, a jury is entitled to reject some portions of a witness' testimony while accepting others. [Citation.] Weaknesses and inconsistencies in eyewitness testimony are matters solely for the jury to evaluate. [Citation.]" (*People v. Allen* (1985) 165 Cal.App.3d 616, 623.)

In sum, it appears that Julie's testimony was believed by the jury and defendant's testimony was disbelieved. Julie's testimony was neither improbable nor impossible, and it was corroborated by Kelly's observation of defendant's position, Julie's pulled-down pants, and her bloodied condition. Substantial evidence thus supports the jury's findings that defendant assaulted Julie with a deadly weapon, that she suffered great bodily injury, and that defendant intended to rape her.

II. Admission of evidence of uncharged sex offenses

Defendant contends that the trial court erred in admitting evidence of defendant's 1986 conviction of two counts of rape and one count of forcible oral copulation, and that the error violated his constitutional right to due process.

Evidence of a prior sex offense is admissible in a current sex-crime trial, subject to Evidence Code section 352, which requires the trial court to weigh the probative value of the evidence against its prejudicial effect. (See Evid. Code, § 1108, subd. (a); *People v. Falsetta* (1999) 21 Cal.4th 903, 910-911, 918-919 (*Falsetta*).) The trial court's discretion under Evidence Code section 352 is very broad. (*People v. Wilson* (2008) 44 Cal.4th 758, 797.) As the party claiming that the trial court abused its discretion, defendant bears the burden of demonstrating that the decision was irrational, arbitrary, or not "'grounded in reasoned judgment and guided by legal principles and policies appropriate to the particular matter at issue.' [Citation.]" (*People v. Superior Court (Alvarez)* (1997) 14 Cal.4th 968, 977.) It is not enough to argue that reasonable people could disagree with the trial court. (*People v. Preyer* (1985) 164 Cal.App.3d 568, 573.) Nor is it sufficient to present facts which would merely support a different opinion. (*People v. Stewart* (1985) 171 Cal.App.3d 59, 65.) Further, a decision made under the ordinary rules of evidence does not ordinarily implicate constitutional rights. (*People v. Dement* (2011) 53 Cal.4th 1, 52.) As defendant did not make a constitutional argument below, we do not reach his due process claim unless and until he establishes error under state law. (*People v. Thornton* (2007) 41 Cal.4th 391, 443-444.)

Defendant contends that the trial court failed to weigh or engaged in insufficient weighing of the potentially prejudicial effect of the evidence against its probative value. He also contends that the evidence had minimal probative value, as it

was not relevant to prove any material issue in the case, and that its prejudicial effect outweighed any probative value.

There is no merit to defendant's claim that the trial court failed to weigh or engaged in insufficient weighing of the potentially prejudicial effect of the evidence against its probative value. After hearing extensive argument by counsel, the trial court expressly found that the evidence was probative of intent and propensity to commit sex offenses, that it would not create an undue consumption of time, that it was not remote under the circumstances, and although there was potential for prejudice, that potential prejudice did not substantially outweigh the probative value.

Defendant's contentions that the evidence had minimal probative value and had no relevance to any contested issue must also be rejected. In sexual assault cases, evidence of prior sex offenses is uniquely probative. (*People v. Loy* (2011) 52 Cal.4th 46, 64.) It is relevant to prove the defendant's propensity to commit sex offenses, as well as his motive or intent in the current offense, if those issues are contested, as they were here. (See *Falsetta*, *supra*, 21 Cal.4th at pp. 920-922.) Defendant's intent to rape Julie and his motive in assaulting her were contested by defendant at trial, and defendant's testimony was in direct contradiction to Julie's. Sex crimes usually involve conflicting versions of the event, requiring the jury to make difficult credibility determinations. (*Id*. at p. 915.) When the defendant testifies, propensity evidence may also serve to impeach his credibility. (See *People v. Disa* (2016) 1 Cal.App.5th 654, 672 ["a defendant is not entitled to a false aura of veracity"].)

As defendant notes, evidence of uncharged sex offenses is inherently prejudicial. (*People v. Ewoldt* (1994) 7 Cal.4th 380, 404.) Prejudice was greatly diminished here however, by defendant's stipulation to the proof of the prior sex offense with

the abstract of judgment, thus avoiding "the danger that the jury might have been inclined to punish defendant for the uncharged offenses, regardless whether it considered him guilty of the charged offenses." (*Ewoldt*, *supra*, at p. 405.) And because it avoided having the jury determine whether the uncharged offenses had occurred, it decreased "the likelihood of 'confusing the issues' (Evid. Code, § 352)." (*Ibid*.) Further, defendant's stipulation provided a less prejudicial alternative by obviating the testimony of the victim in the prior case, so that the jury did not hear inflammatory details of the rape and forcible oral copulation. (See *People v. Loy*, *supra*, 52 Cal.4th at p. 64; *Falsetta*, *supra*, 21 Cal.4th at p. 917.)

Under the circumstances presented here, it cannot be said that the trial court exercised its discretion in an arbitrary or irrational manner, or one that was not guided by appropriate legal principles. Regardless, any prejudicial effect of the evidence was dispelled when the trial court read CALCRIM No. 375, which instructed the jury in relevant part: "If you decide that the defendant committed the uncharged offenses, you may, but are not required to, conclude from that evidence that the defendants disposed or inclined to commit sexual offenses, and based on that decision, also conclude that the defendant was likely to commit and did commit assault with intent to commit rape . . . as charged in count 3 in this case. If you conclude that the defendant committed the uncharged offenses, that conclusion is only one factor to consider along with all the other evidence. It is not sufficient by itself to prove that the defendant is guilty of assault with intent to commit rape as charged in count 3. The people must still prove the charge beyond a reasonable doubt. Do not consider this evidence for any other purposes except for the limited purposes . . . of assessing the defendant's credibility and

determining his intent, if any. Other instructions set forth the law that applies to those situations."

"Jurors are presumed able to understand and correlate instructions and are further presumed to have followed the court's instructions. [Citation.]" (*People v. Sanchez* (2001) 26 Cal.4th 834, 852.) Absent evidence to the contrary, and we see none here, we presume the jurors followed the court's instructions and did not consider the evidence of defendant's prior offenses for an unauthorized purpose.

In addition, we agree with respondent that it is not reasonably probable that defendant would have obtained a more favorable result absent the admission of the uncharged sex offenses. Indeed, in light of the instruction to the jury, Julie's testimony, and Kelly's corroboration, we conclude that if the court had erred, the error would be harmless beyond a reasonable doubt.

III. Failure to register as a sex offender

Defendant contends that the trial court erred in permitting the prosecutor to impeach defendant's credibility with his two prior convictions of failing to register as a sex offender.

Subject to the trial court's discretion under Evidence Code section 352, the California Constitution, article I, section 28, subdivision (f), and principles of due process authorize the use for impeachment purposes only those crimes that "necessarily involve moral turpitude." (*People v. Castro* (1985) 38 Cal.3d 301, 306 (*Castro*).) A witness's "moral turpitude" permits the inference that the witness is more likely to be dishonest. (*People v. Wheeler* (1992) 4 Cal.4th 284, 295; *Castro*, at pp. 314-315.) To determine whether the crime is one of moral turpitude we apply "the 'the least adjudicated elements' test," which "means that 'from the elements of the offense alone -- without regard to the facts of the particular violation -- one can reasonably infer the

presence of moral turpitude.' [Citations.]" (*People v. Feaster* (2002) 102 Cal.App.4th 1084, 1091; see *Castro*, *supra*, at p. 317.)

The willful failure to register or update a registration by a person required to register as a sex offender due to a felony conviction is guilty of a felony. (§ 290.018, subd. (b).) Neither the parties nor we have found published authority regarding whether a sex offender's willful failure to register is a crime of moral turpitude.

Respondent argues that the trial court correctly relied on *People v. Garrett* (1987) 195 Cal.App.3d 795, to draw an analogy with failure to register a firearm. That case provides no assistance here, as it involved conspiracy to possess an illegal weapon, not a mere failure to register a firearm, and respondent has not cited any crime, whether involving moral turpitude or otherwise, for the mere failure to register a firearm without some possession or use element. The offense of willful failure by a sex offender to register is "regulatory in nature." (*Wright v. Superior Court* (1997) 15 Cal.4th 521, 527.) As such, a conviction requires a lesser degree of culpability than criminal negligence. (See *People v. Barker* (2004) 34 Cal.4th 345, 363, dis. opn. Kennard, J.; *Stark v. Superior Court* (2011) 52 Cal.4th 368, 403.) Unlike the unlawful possession of a firearm, the offense is committed by omission rather than by an affirmative act. (*People v. Garcia* (2001) 25 Cal.4th 744, 752.) "[C]ourts have held that passive crimes do not involve moral turpitude. For example, in *People v. Sanders* (1992) 10 Cal.App.4th 1268, 1274, the court held that child endangerment in violation of [former] section 273a, subdivision (1) was not a crime of moral turpitude because it required wholly passive conduct." (*People v. Feaster*, *supra*, 102 Cal.App.4th at p. 1092.)

We need not decide the issue, however. Assuming that the a sex offender's willful failure to register is not a crime of moral

turpitude, we agree with respondent that any error in admitting the convictions was harmless. Error in admitting impeachment evidence is reviewed under the test of *People v. Watson* (1956) 46 Cal.2d 818, 836. (*Castro*, *supra*, 38 Cal.3d at p. 319.) The error is harmless under that test when a review of the entire record demonstrates that a different outcome was not reasonably probable in the absence of error. (*Watson, supra,* at p. 836; see Cal. Const., art. VI, § 13.) As respondent notes, evidence of the sex offenses that required defendant to register were already before the jury, and defendant's credibility was already further damaged by Julie's testimony contradicting defendant's and Kelly's corroborating observations, as well as the fact that Julie's blood, but not defendant's, was discovered on the head of the pliers in defendant's backpack. We have reviewed the entire record, and discern no reasonable probability that the jury would have found defendant any more credible if the registration convictions had not been admitted.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
CHAVEZ

We concur:

_____, Acting P. J.
ASHMANN-GERST

_____, J.
HOFFSTADT