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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Appellant,

v.

JAMES HAROLD STRATHY,

Defendant and Respondent.

B269852

(Los Angeles County
Super. Ct. No. GA097088)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Elaine Lu, Judge. Affirmed.

Kevin Smith, under appointment by the Court of Appeal,
for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler,
Chief Assistant Attorney General, Lance E. Winters, Senior
Assistant Attorney General, Paul M. Roadarmel, Jr. and Stacy S.
Schwartz, Deputy Attorneys General, for Plaintiff and
Respondent.

INTRODUCTION

James Harold Strathy appeals from the judgment entered after a jury convicted him of attempted carjacking in violation of Penal Code sections 664 and 215, subdivision (a),¹ and misdemeanor leaving the scene of an accident in violation of Vehicle Code section 20002, subdivision (a). Strathy contends there was insufficient evidence to support the latter conviction. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Strathy was driving on Los Robles Avenue in San Marino when he crashed head-on into a tree on the parkway between the curb and the sidewalk. Witnesses testified that when Strathy got out of his car after the crash he was bleeding from wounds on his head and face, and he looked “a little discombobulated” and “groggy.”

William Hernandez was also driving on Los Robles Avenue, and when he came upon the crash site he saw Strathy walking along with his “face all full of blood.” Hernandez stopped his car, rolled down the passenger window, and asked Strathy if he wanted him to call 911. In response, Strathy opened the passenger door, flashed a metal object later determined to be a screwdriver, and said, “Get out of your car.” Hernandez immediately drove off. Strathy held onto the passenger door until he fell. Strathy got up and began running down the street.

¹ Undesignated statutory references are to the Penal Code.

Another witness, Kenneth Monis, followed Strathy down the street to observe him until the police arrived. He caught up with Strathy in a nearby parking lot and urged him to return to the scene of the accident. Strathy eventually walked with Monis back to the scene of the crash. When they arrived, the police were there and took Strathy into custody.

One of the police officers, Daniel Gosserand, testified that Strathy's car was pinned to the tree and had to be pulled away from it by a tow truck. According to Officer Gosserand, "the tree had collision damage that was consistent with a vehicle striking it," which included bark removed by the vehicle's bumper. The court received into evidence photographs Officer Gosserand took of the damaged tree. Officer Gosserand also testified that he spoke with Strathy about the accident at the scene, and during that conversation Strathy said he was driving about eight miles per hour when he lost control of his vehicle and collided with the tree. Officer Gosserand testified Strathy appeared to understand his questions, gave appropriate responses, followed commands, and said nothing about having lost consciousness or blacked out before crashing into the tree.

Strathy, however, testified that as he approached the intersection he "blacked out" (or "lost consciousness") before he collided with the tree, and that the next thing he remembered was waking up in the hospital handcuffed to a gurney. Strathy testified that he did not remember how fast he was driving as he approached the intersection, but recalled he had begun to brake for a red light.

The People charged Strathy with attempted carjacking (§§ 664, 215, subd. (a)) and leaving the scene of an accident (Veh. Code, § 20002, subd. (a)). The People also alleged Strathy

personally used a deadly weapon (in this case, a screwdriver) during commission of the attempted carjacking and had served 11 prior prison terms within the meaning of section 667.5, subdivision (b).

The jury found Strathy guilty of attempted carjacking and leaving the scene of an accident. It found not true the allegation he used a deadly or dangerous weapon in the commission of the attempted carjacking. Strathy admitted the prior prison term allegations. The trial court sentenced Strathy to a 12-year prison term for attempted carjacking and a concurrent six-month term for leaving the scene of an accident. Strathy timely appealed.

DISCUSSION

Strathy challenges only his misdemeanor conviction for leaving the scene of an accident, contending there was insufficient evidence to support that conviction. “To decide whether the evidence is sufficient to support a jury verdict, ‘a reviewing court reviews the entire record in the light most favorable to the judgment to determine whether it discloses evidence that is reasonable, credible, and of solid value such that a reasonable jury could find the defendant guilty beyond a reasonable doubt.’” (*People v. Sanchez* (2016) 63 Cal.4th 411, 453-454.) We must also “‘presume in support of the judgment the existence of every fact the jury could reasonably have deduced from the evidence.’” (*People v. Sandoval* (2015) 62 Cal.4th 394, 423.) Finally, “[w]e do not reweigh evidence or reevaluate a witness’s credibility,” and we may not substitute our view of the evidence for the jury’s. (*People v. Brown* (2014) 59 Cal.4th 86, 106.)

Vehicle Code section 20002, subdivision (a), requires the driver of any vehicle involved in an accident resulting only in property damage to stop the vehicle immediately at the nearest location that will not impede traffic or otherwise jeopardize the safety of other motorists. The driver must then immediately either (1) locate and notify the owner or person in charge of that property of the name and address of the driver and owner of the vehicle involved or (2) leave in a conspicuous place on the property a written notice giving the name and address of the driver and of the owner of the vehicle involved and a statement of the circumstances of the accident and without unnecessary delay notify the police department of the city in which the collision occurred. (Veh. Code, § 20002, subd. (a)(1)-(2).) “The essential elements of a violation of [Vehicle Code] section 20002, subdivision (a) are that the defendant: (1) knew he or she was involved in an accident; (2) knew damage resulted from the accident; and (3) knowingly and willfully left the scene of the accident (4) without giving the required information to” the property owner. (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1123, fn. 10; see 2 Witkin & Epstein, Cal. Criminal Law (4th ed. 2012) Crimes Against Public Peace and Welfare, § 313, p. 1061.)

Strathy challenges the second and third elements. Regarding the second element, having knowledge the accident caused damage, he argues there was no evidence of “any measurable damage to the tree, much less that [he] knew about it.” But there was such evidence. Strathy crashed his vehicle into the tree with such force that, according to Officer Gosserand, the vehicle was “pinned” to the tree and had to be removed from the tree by a tow truck. Officer Gosserand stated “the tree had collision damage that was consistent with a vehicle striking it,”

and he noted the vehicle's bumper had removed bark. The jury could reasonably conclude from this evidence that the collision damaged the tree and that Strathy, who experienced the force of the collision, knew it. (Cf. *People v. Holford* (1965) 63 Cal.2d 74, 80 [although conviction under Vehicle Code section 20001, which penalizes a driver who fails to stop a vehicle “involved in an accident resulting in injury,” requires knowledge of the injury as an essential element, such knowledge must usually “be derived from the surrounding facts and circumstances of the accident”]; *People v. Nordberg* (2010) 189 Cal.App.4th 1228, 1237 [same].) That Strathy may not have known the extent of the damage does not mean he did not know there was damage. (See *Holford*, at p. 80, fn. 3 [a conviction under Vehicle Code section 20002 does not require knowledge of the seriousness of the nature of the accident].)

With respect to the third element, knowingly and willfully leaving the scene of the accident, Strathy argues there was no evidence he willfully left the scene of the accident without notifying the owner of the damaged property. But “[t]he terms ‘willful’ or ‘willfully,’ when applied in a penal statute, require only that the illegal act or omission occur ‘intentionally,’ without regard to motive or ignorance of the act’s prohibited character.” [Citation.] ‘Willfully implies no evil intent; “it implies that the person knows what he is doing, intends to do what he is doing and is a free agent.”’” (*People v. Atkins* (2001) 25 Cal.4th 76, 85; accord, *People v. Bollaert* (2016) 248 Cal.App.4th 699, 710; see *People v. Lowery* (2011) 52 Cal.4th 419, 427 [“a penal statute’s use of the term ‘willfully’ to describe the intent with which an act is done ordinarily implies ‘simply a purpose or willingness to commit the act,’ not ‘any intent to violate law, or to injure

another”]; cf. *People v. Crouch* (1980) 108 Cal.App.3d Supp. 14, 22 [failure to give information required by Vehicle Code section 20002, subdivision (a), may not be willful, for example, “if the accused person were transported by ambulance from the scene in an unconscious condition”].) The trial testimony indicated Strathy ran away from the scene of the collision by his own choice and under his own power, i.e., as a “free agent.” (*Bollaert*, at p. 710.) This evidence supports a finding he fled the scene of the accident willfully.²

Strathy also argues there was no evidence he engaged in “unnecessary delay” in reporting damage to the tree. Given the injuries he suffered and the police officers’ prompt arrival on the scene, he asks rhetorically, “What further action was [he] supposed to take to report damage to the tree, if any, under these circumstances?” The answer is: stay put. Strathy’s offense was not that he failed to notify police of the accident before they arrived at the scene. His offense was that he left the scene without giving the property owner the required information. (See *Carbajal, supra*, 10 Cal.4th at p. 1124 [the crime under Vehicle Code section 20002, subdivision (a), “is complete upon the “running””].) In any event, the jury could reasonably conclude Strathy did not comply with the requirement of notifying the police department without unnecessary delay: Instead of attempting to carjack William Hernandez, Strathy could have accepted his offer to call 911. (See *People v. McDonald* (1956) 139 Cal.App.2d 855, 858 [under former Vehicle Code provision requiring a driver involved in a lethal accident to report the

² Strathy does not argue his mental state after the collision precluded him from acting “willfully” when he ran away from the scene.

accident “without delay” to the police or highway patrol, the defendant “did not ask to use the telephone at the house to which he went immediately after the accident” and “thus failed to avail himself of the first opportunity to make the required report ‘without delay’”].)

DISPOSITION

The judgment is affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

KEENY, J.*

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