

*People v. Trujillo (Manuel) (S130080)*

This case presents two issues: (1) May the prosecutor appeal if the trial court rules that a prior conviction is not a “Strike”? (2) May a trial court rely upon a defendant’s statement in a probation report to determine whether a prior conviction is a Strike?

A jury found Manuel Trujillo guilty of assault. The trial court then considered whether Trujillo had suffered two prior convictions for “serious” felonies under the “Three Strikes Law.” If both of Trujillo’s prior convictions were for “serious” felonies, his latest conviction would be his Third Strike and he would be sentenced to life in prison.

Trujillo admitted that one of his prior convictions was a Strike, but argued that his other prior conviction, for inflicting corporal injury on his live-in girlfriend, was not a Strike. (“Corporal injury” means bodily injury.) But a conviction for inflicting corporal injury is not always a Strike; it depends upon how the crime was committed. For instance, any felony is a Strike if the defendant used a deadly weapon. What the trial court had to decide, therefore, was whether Trujillo had used a deadly weapon when he injured his girlfriend.

When Trujillo was prosecuted for the prior conviction, the prosecutor had claimed that Trujillo had used a knife in inflicting corporal injury on his girlfriend, and also charged that Trujillo committed an assault with a deadly weapon. But the prosecutor and Trujillo reached a plea bargain; Trujillo pleaded guilty to inflicting corporal injury and the charges involving the knife were dismissed.

Before Trujillo was sentenced, he spoke to a probation officer and admitted that he had stabbed his girlfriend during an argument, stating: “I stuck her with the knife.” This statement is in Trujillo’s probation report.

The prosecutor in the present case tried to use Trujillo’s statement in the probation report to show that Trujillo’s prior conviction for inflicting corporal injury was a Strike because he had used a knife, but the trial court disagreed because the charges involving the knife had been dismissed under the plea bargain. The trial court concluded that Trujillo had accepted the plea bargain “with the understanding the knife allegation would not be used. It went away. The defendant relied on that.” The trial court found that the prior conviction was not a Strike and sentenced Trujillo to 7 years in prison.

The prosecutor filed an appeal in the Court of Appeal. The Court of Appeal disagreed with the trial court and concluded that Trujillo’s prior conviction for inflicting corporal injury was a Strike, because he had admitted to the probation officer that he had used a knife.

The California Supreme Court must first decide whether the prosecutor may appeal the trial court’s ruling that the prior conviction is not a Strike. The

*prosecutor* (contrasted with the defendant) usually may not file an appeal and may do so only if a statute specifically allows it. Allowing the prosecutor to appeal might force a defendant to face two trials, which could violate the rule against double jeopardy. Here, the prosecutor relies upon a statute (Penal Code section 1238) that allows an appeal from an order “setting aside” or “terminating” part of the case, or from an “unlawful sentence.” The prosecutor argues that Trujillo’s prior conviction was set aside or terminated, and argues that Trujillo’s sentence of 7 years was unlawful because Trujillo should have been sentenced to life in prison. Trujillo answers that his prior conviction was not “set aside” or “terminated”; the trial court simply found that his prior conviction was not a Strike. Trujillo also argues that his sentence was not “unlawful”; the trial judge ruled that his prior conviction was not a Strike and imposed the proper sentence.

If the Supreme Court decides that the prosecutor may appeal, then it also must decide whether the trial court should have considered Trujillo’s statement in the probation report in deciding whether Trujillo’s prior conviction was a Strike. In deciding whether the prior conviction was a Strike, the trial court was allowed to “look to the entire record of the conviction.” The prosecutor argues that the trial court should have looked at the probation report, which included Trujillo’s statement that he stabbed his girlfriend, because the probation report was part of the record of the conviction. Trujillo argues that the trial court reasonably found that the prior conviction was not a Strike, and that the Supreme Court should respect the trial court’s conclusion.