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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE, Plaintiff and Respondent, v. BERNARD LEANDRA WOULLDAR, Defendant and Appellant.	E055746 (Super.Ct.No. RIF1102770) OPINION

APPEAL from the Superior Court of Riverside County. Gary B. Tranbarger, Judge. Affirmed.

Renée Paradis, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On November 29, 2011, an information charged defendant and appellant Bernard Leandra Woulldar with fleeing from police in a motor vehicle with willful and wanton disregard for safety of persons and property under Vehicle Code section 2800.2 (count

1); and violating a protective order under Penal Code[1] section 273.6, subdivision (a) (count 2). The information also alleged that defendant had two prior convictions resulting in prison terms under section 667.5, subdivision (b), and one prior serious or violent felony conviction under sections 667, subdivisions (c) and (e)(1), and 1170.12, subdivision (c)(1).

On January 23, 2012, before jury trial began, the trial court granted the prosecution's motion to dismiss count 2. Trial continued through January 26, 2012. The following day, January 27, the jury found defendant guilty of count 1.

Trial on defendant's priors was bifurcated; defendant waived his right to a jury trial on the priors. On January 30, 2012, a trial on the priors was held. The court found the priors true as alleged.

At the sentencing hearing on February 24, 2012, the trial court denied defendant's motion to dismiss his strike prior under *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497. The court then sentenced defendant to the upper term on count 1, doubled under the three strikes law, for six years. Defendant was sentenced to an additional two years for the two prison priors, for total of eight years.

On February 27, 2012, defendant filed his notice of appeal.

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[1] All statutory references are to the Penal Code unless otherwise specified.

I

STATEMENT OF FACTS

A. Prosecution Case

Nikki Love is defendant's estranged wife. On May 13, 2011, defendant attempted to make contact with her outside her cousin's house. Love drove off without speaking to defendant; he followed her in his girlfriend's car, a gray Taurus or Mercury. It was approximately 7:00 or 8:00 p.m. Love became scared and called the police to report that defendant was following her. While Love was on the phone with 911, defendant had left his car and was approaching her vehicle on foot. Love reported the license plate of the car defendant was driving by reading the license plate number directly off the car. Love testified that she had filed for divorce prior to the incident happening; their marriage had lasted one week, and she had one child with defendant. Later, Love was impeached with divorce papers indicating that she had filed for divorce on May 27, after the incident occurred.

On May 13, 2011, Deputy Sheriff Maurice Daugherty was assigned to patrol. He responded to the 911 call made by Love. He began following a silver Mercury Sable that matched the license plate given to him by dispatch. He activated his lights and sirens once he identified the car. At one point, the silver car made a U-turn and passed the patrol car head-on, allowing the deputy to see the driver's face illuminated by his own car's headlights. He identified the driver as defendant. During the chase, defendant did not have his headlights on; was driving in excess of 80 miles per hour; was driving at

least 40 miles in a 25-mile zone; ran at least four stop signs; and ran at least three red lights at two heavily trafficked intersections. After defendant ran a red light at East Nuevo Road and Ruby Drive, the deputy decided that, in the interests of public safety, he would terminate the chase. Deputy Daugherty turned off his lights and siren and continued to follow defendant. At Perris Boulevard and Nuevo Road, three additional patrol cars encountered defendant and began to follow him, with lights and sirens. With four patrol cars in pursuit, defendant got onto Interstate 215, heading north. Defendant accelerated above 80 miles per hour, as he swerved onto the shoulder and around cars to evade pursuit.

At some point, the lead deputy lost visual contact with the silver car, believing that the car had exited at Harley Knox Boulevard. Two of the deputies exited there, including Deputy Daugherty. They located the silver car driving on Harley Knox Boulevard. Defendant turned onto Indian Street and accelerated up to 80 miles per hour again; Deputy Daugherty reactivated his lights and siren. Defendant ran another red light. As defendant approached a dead end, he pulled into a parking lot and stopped. Deputy Daugherty parked his car and exited his vehicle, along with his fellow deputy Harold Odom. Defendant put his car in reverse and passed the deputies, then exited the parking lot and headed back toward Harley Knox Boulevard. As he did so, Deputy Daugherty was able to once again see defendant's face. Deputy Daugherty got back into his patrol car and resumed the chase. Defendant accelerated back up and reentered Interstate 215, heading north. Once on the freeway, defendant accelerated to over 100 miles per hour

and resumed using the shoulder. At the intersection of Interstate 215 and Highway 60, defendant made a last minute lane change to go east on Highway 60, cutting off a semi-truck, fending off his pursuers. Deputy Daugherty was unable to locate defendant again, and a helicopter called to the scene was also unable to locate the car.

Deputy Odom believed that the chase began approximately between 9:45 p.m. and 10:30 p.m. He joined it at Harley Knox Boulevard near Perris Boulevard. He followed defendant as he turned off Harley Knox onto a side street, which ran into a dead end. Deputy Odom got out of his car after defendant stopped his car in the parking lot and saw defendant, who looked directly at the deputy. After defendant drove out of the lot, Deputy Odom resumed the pursuit with Deputy Daugherty. Deputy Odom followed defendant onto the freeway, where they stopped the pursuit. Deputy Odom had picked defendant as the driver of the car out of a six-pack photo array prior to testifying, and identified him again in court.

Candace Harper lives in Riverside and dated defendant from late 2010 to March or April of 2011. She owns a silver Mercury Sable; the license plate matches the license plate of the car that was in pursuit. She testified that on May 13, 2011, her car was in her garage.

Nikki Love testified that in December 2011, Harper had called Love to tell her that Harper planned to testify untruthfully at trial—that defendant did not have her car. Harper also encouraged Love to use the marital privilege to refuse to testify against defendant.

B. Defense Case

Latasha Hilt is defendant's aunt. On May 13, 2011, she was caring for her mother in Compton. Hilt resides in Long Beach. She was at her mother's house between the hours of 10:00 a.m. and 6:00 p.m. Defendant was at the house the entire time Hilt was there.

David Taylor is a deputy sheriff in Riverside. At approximately 10:00 p.m. on May 13, 2011, he was dispatched to a residence on Neptune Drive to respond to a call regarding the violation of a restraining order. He spoke with Love, who told him she had been married to defendant for three years and separated for six months. Love also told him that she and defendant had no children together. That information was contained in the report he had filed about the incident.

Three stipulations were also entered into evidence. First, a protective order prohibiting defendant from making negative contact with Love was in effect on May 13, 2011. Second, Love and defendant were married on April 28, 2011. Third, Love filed for divorce on May 27, 2011.

II

ANALYSIS

After defendant appealed, and upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 setting forth a statement of

the case, a summary of the facts, and potential arguable issues and requesting this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, and he has done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error. In his six-page supplemental brief, defendant seems to argue that his case should be overturned because the trial judge, deputy district attorney, deputies Odom and Daugherty, and Love all lied and were corrupt. We hereby address defendant's contentions.

First, defendant contends that the trial judge was corrupt "because of discrepancy/bias and improper sentence." In support, defendant seems to argue that the court improperly inflicted "a harsher punishment on the defendant for exercising the constitutional right to trial or the privilege against self-incrimination." Defendant, however, fails to support his contention with reference to the record. We have reviewed the record and find nothing to support defendant's contention that the trial court imposed a harsher sentence because he did not testify at trial.

Next, defendant contends that the deputy district attorney was guilty of "corruption/discrepancy/bias" because she relied on false documents by the deputies. In support, defendant seems to argue that deputies Odom and Daugherty deliberately lied. Again, there is nothing in the record to support defendant's contention that the deputies had lied in their reports or on the stand. In fact, the deputies had testified at trial. The jurors heard the deputies' testimonies and, as the triers of fact, were able to assess the

deputies' credibility. The jurors obviously believed in the deputies as they found defendant guilty. Similarly, defendant contends that Love deliberately lied during the 911 call. Again, the jurors heard Love's testimony. On appeal, "we do not reweigh the evidence, resolve conflicts in the evidence, or reevaluate the credibility of witnesses." (*People v. Cortes* (1999) 71 Cal.App.4th 62, 71.)

Finally, defendant appears to be arguing that his case should be overturned because the prosecution failed to provide the defense with the police reports in a timely manner to investigate or talk to witnesses to "investigate the serious corruption" with the judge, deputy district attorney, and the two deputies. In reviewing the augmented reporter's transcript attached to defendant's personal brief, it appears that Deputy Odom's identity was not revealed to defense counsel until one day after trial had commenced. The parties and the court discussed this issue at length. The prosecutor in the case learned of Deputy Odom's ability to identify defendant the night before the hearing on whether his testimony should be allowed. As soon as the prosecutor learned of Deputy Odom, she informed defense counsel right away. In response to this late discovery, the trial court continued the trial. The court directed that an interview between the defense investigator and Officer Odom occur that afternoon. Therefore, the court gave defendant an opportunity to interview Officer Odom prior to resuming the trial. Moreover, we note that the main purpose of Deputy Odom's testimony was to identify defendant as the person who committed the crime on May 13, 2011. Even without his

testimony, Deputy Daugherty was able to identify defendant. Moreover, other evidence clearly showed that defendant was the person driving the car evading the police officers.

We have now concluded our independent review of the record and find no arguable issues.

III

DISPOSITION

The judgment is affirmed.

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MCKINSTER
J.

We concur:

HOLLENHORST
Acting P. J.

RICHLI
J.