

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

JARVIS DEWAYNE BELL,

Defendant and Appellant.

E061359

(Super.Ct.No. BAF1200263)

O P I N I O N

APPEAL from the Superior Court of Riverside County. Michael B. Donner,  
Judge. Affirmed.

Valerie G. Wass, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney  
General, Julie L. Garland, Assistant Attorney General, and Charles C. Ragland, Teresa  
Torreblanca, and Lynne G. McGinnis, Deputy Attorneys General, for Plaintiff and  
Respondent.

## I. INTRODUCTION

Defendant Jarvis Dewayne Bell appeals from his conviction of assault with a deadly weapon, a knife (Pen. Code, § 245, subd. (a)(1)—count 1),<sup>1</sup> unlawfully carrying a concealed dirk or dagger (§ 21310—count 2), possession of a deadly weapon in jail (§ 4574—count 3), battery against a custodial officer (§ 243.1—counts 4 & 6-8), and resisting an executive officer in the performance of his duty (§ 69—counts 5 & 9), along with the true findings of personal infliction of great bodily injury (§§ 12022.7, subd. (a), 1192.7, subd. (c)(8)) alleged as to count 1 and of three prior prison term felonies (§ 667.5, subd. (b)), a prior serious felony (§ 667, subd. (a)), and a prior strike conviction (§§ 1170.12, subd. (c)(1), 667, subds. (c), (e)(1)).

Defendant contends his conviction of possession of a deadly weapon in jail was not supported by substantial evidence and violates his constitutional right to due process because he disclosed his possession of the knife during the booking process, and it was removed from his person before he entered the jail.

We find no error, and we affirm.

## II. FACTS AND PROCEDURAL BACKGROUND

### A. *Counts 1, 2, and 4 Through 9*

Because defendant's sole contention on appeal concerns his conviction of possession of a deadly weapon in jail, the facts concerning his other offenses will be set forth summarily: Defendant stabbed Antojuan Scott in the back with a butcher knife.

---

<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

Scott was hospitalized for three weeks because of damage to his internal organs. In two separate incidents, once in court and once awaiting transportation to court, defendant engaged in altercations with deputies.

*B. Count 3*

A confidential informant reported that defendant had stabbed Scott and told the officers where defendant was located. When officers arrived, defendant attempted to flee, but eventually surrendered and was handcuffed. He was searched before being placed in the patrol car, and during the search, an officer found an eight-inch metal stake in his back belt loops, a 12-inch kitchen knife in his front belt loops, and a folding pocket knife in his pocket. The officer did not remove defendant's shoes.

When defendant was being booked at the jail, he was asked if he had anything that would hurt himself or others. He informed the officers that he had a blade hidden in his shoe. The officers removed a four and a half-inch knife blade from his shoe.

*C. Verdict and Sentence*

The jury found defendant guilty of counts 1 through 9 and found true the allegation as to count 1 that he inflicted great bodily injury. Defendant admitted all the prior conviction allegations.

The trial court sentenced defendant to an aggregate term of 18 years 8 months in prison. As to count 3, the court imposed two years (one-third the middle term).

### III. DISCUSSION

Defendant contends his conviction of possession of a deadly weapon in jail was not supported by substantial evidence and violates his constitutional right to due process because he disclosed his possession of the knife during the booking process, and it was removed from his person before he entered the jail.

#### A. *Standard of Review*

When a criminal defendant challenges the sufficiency of the evidence to support his conviction, this court reviews the entire record in the light most favorable to the judgment to determine whether a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) We “presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence.” (*Ibid.*)

#### B. *Section 4574, Subdivision (a)*

Defendant was convicted of violating section 4574, subdivision (a), which provides: “[A]ny person, who knowingly brings or sends into, . . . any jail . . . or within the grounds belonging to or adjacent to any such institution, any . . . deadly weapons, . . . and any person who, while lawfully confined in a jail . . . possesses therein any . . . deadly weapon . . . is guilty of a felony.” The actus reus of this offense is bringing a deadly weapon into a jail or within the grounds belonging to or adjacent to the institution, and the mens rea is knowledge that one possesses the weapon and that the location was a jail. (*People v. Ross* (2008) 162 Cal.App.4th 1184, 1188-1189 (*Ross*).

### C. Defendant's Conduct Violated the Statute

Defendant relies on *Ross*, as well as *People v. James* (1969) 1 Cal.App.3d 645 (*James*) and *People v. Low* (2010) 49 Cal.4th 372 (*Low*) to support his argument that he did not violate the statute because he told the booking officer he had a knife.

In *James*, the defendant lied to the booking officer about his possession of a pistol and continued to possess it after he was booked. The court affirmed his conviction of a violation of section 4574, subdivision (a) but suggested in dicta that he would not have violated the statute if he had given the pistol to the booking officer. (*James, supra*, 1 Cal.App.3d at p. 650.)

Similarly, in *Ross*, the defendant knowingly carried a deadly weapon into jail after denying to an officer that she was carrying the weapon. (*Ross, supra*, 162 Cal.App.4th at p. 1187.) The court stated that for purposes of the statute, it does not matter if the defendant enters the jail voluntarily or involuntarily, and also stated that if the defendant had been truthful about possession of the weapon before booking, rather than keeping the knife hidden in her waistband, she would not have violated the statute. (*Id.* at pp. 1188-1189.) Specifically, the court stated: “Like the defendant in *James*, respondent ‘knew [she] had the [knife] and [she] knew [she] should have turned it over to the jailer when [she] was booked.’ [Citation.] Respondent’s conduct, therefore, also ‘comes within that proscribed by Penal Code section 4574.’” (*Id.* at p. 1189.)

In *Low*, the court addressed section 4573, which prohibits bringing controlled substances into jail. In that case, the defendant entered a booking facility with drugs

hidden in his sock after having been warned that controlled substances could not be brought into jail. (*Low, supra*, 49 Cal.4th at p. 387.) The court concluded that the legislative history of section 4573 showed that the statute aided the effort of attacking the presence of contraband in penal institutions “by encouraging all persons, including arrestees, to divest themselves of controlled substances in their possession in lieu of violating the statute.” (*Low, supra*, at p. 388.) The court cited *Ross* and *James*, noting that the defendant had rejected the opportunity to avoid bringing drugs into the facility by not telling the officer when he was warned and asked outside the jail whether he was carrying contraband. The court described the critical factors as “the lack of any compulsion to bring contraband inside, and the rejection of a clear opportunity to avoid doing so by voluntarily relinquishing the forbidden object or substance *before* entering the premises.” (*Low, supra*, at p. 384, italics added.)

In *Low*, *Ross*, and *James*, each defendant was asked about the presence of contraband or was warned it could not be brought into the jail, and each defendant failed to disclose the contraband. However, the language in each of those cases on which defendant relies was dicta. The plain language of the statute proscribes bringing a weapon into the jail or within the grounds belonging or adjacent to the institution. (§ 4574.) That is exactly what defendant did. Defendant obviously knew he had a knife blade concealed in his shoe, but he never informed the officer of the blade during the search pursuant to his arrest or during the ride to jail. In *People v. Grayson* (2000) 83 Cal.App.4th 479, the court stated that “[S]ection 4574 is a stringent statute governing

prison safety and serves an objective demanding relative inflexibility and relatively strict liability to problems compounded by inmate ingenuity.” (*Id.* at p. 486.)

Defendant further contends that “the fact that he disclosed his possession of the weapon *during* the booking process, and it was thereafter removed from his shoe, demonstrates that he did not possess a weapon *while lawfully confined in a jail.*” He argues that he was not “‘lawfully confined in a jail’ until after the completion of the booking process.” However, in *People v. Gastello* (2010) 49 Cal.4th 395, the court stated that the analogous section 4573 “deters inmates from knowingly bringing controlled substances into jail *from the time they first arrive as arrestees and are booked into custody.*” (*People v. Gastello, supra*, at p. 402.)

Finally, defendant argues that the officer who transported him to the jail facility “did not testify whether the booking facility was completely separate from the jail facility, and the prosecution did not present any evidence to establish that the booking process took place ‘within the grounds belonging or adjacent to the jail.’” The officer testified that he drove defendant “to the Riverside County Jail facility in Banning. And once we get into the jail facility, we—I’ll park the car. I’ll have the defendant exit my police car, who’s handcuffed. And I walk him into the booking facility.” He continued: “Well, once I’m in the facility, he’s now in the custody of the Riverside County Sheriff’s Department.” When asked if defendant “was in the custody of the Riverside County Sheriff’s Department and the jail facility,” the officer responded, “We were in the

booking area, yes.” From that testimony, the jury could reasonably infer that the booking took place within the jail facility. (*People v. Ochoa, supra*, 6 Cal.4th at p. 1206.)

We conclude that substantial evidence supports the conviction of a violation of section 4574, subdivision (a).

#### IV. DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

KING  
J.

We concur:

McKINSTER  
Acting P. J.

MILLER  
J.