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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

TRAVIS THEODORE LASSITER,

Defendant and Appellant.

G044671

(Super. Ct. No. 09WF1906)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, David A. Thompson, Judge. Affirmed.

Dennis L. Cava, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Gary W. Schons, Assistant Attorney General, James D. Dutton and Sabrina Y. Lane-Erwin, Deputy Attorneys General, for Plaintiff and Respondent.

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A jury convicted defendant Travis Theodore Lassiter of willful infliction of corporal injury on a spouse with a similar prior conviction (Pen. Code, § 273.5, subds. (a) & (e)(1); all statutory citations are to the Penal Code unless noted), and found to be true the allegation he inflicted great bodily injury (§ 12022.7, subd. (a)). Lassiter admitted he previously had suffered a conviction qualifying as a strike under the “Three Strikes” law. He also admitted allegations he had served four prison terms under section 667.5, subdivision (b). Lassiter challenges the sufficiency of the evidence to sustain the great bodily injury enhancement. For the reasons expressed below, we affirm.

## I

### FACTUAL AND PROCEDURAL HISTORY

On the afternoon of September 1, 2009, Lassiter’s wife, Autumn Pearson, struck a curb while driving with Lassiter and another man. The three had been drinking alcohol at a nearby park in Fountain Valley. After the accident, Lassiter and Pearson argued and he struck her in the face with a closed fist. Pearson suffered injury to the left side of her face, and bled profusely. She dropped to the sidewalk and cried uncontrollably. Paramedics transported her to a nearby hospital, where a physician closed a wound to her left lip with stitches. Lassiter testified and denied hitting Pearson, but admitted he might have pushed her down.

## II

### DISCUSSION

#### *Substantial Evidence Supports the Great Bodily Injury Enhancement*

Lassiter contends there is insufficient evidence to support the great bodily injury enhancement. We disagree.

An appellate court reviews the record in the light most favorable to the judgment below to determine whether it discloses substantial evidence, defined as evidence that is reasonable, credible, and of solid value. (*People v. Elliot* (2005) 37 Cal.4th 453, 466; *People v. Johnson* (1980) 26 Cal.3d 557, 576–578; *Jackson v. Virginia* (1979) 443 U.S. 307, 318–319.) The test is whether substantial evidence supports the verdict, not whether the evidence proves guilt beyond a reasonable doubt. (*People v. Crittenden* (1994) 9 Cal.4th 83, 139.) Thus, the court must affirm the judgment below unless “upon no hypothesis whatever is there sufficient substantial evidence to support it. [Citation.]” (*People v. Redmond* (1969) 71 Cal.2d 745, 755.) It is the jury’s exclusive province to assess the credibility of the witnesses, resolve conflicts in the testimony, and weigh the evidence. (*People v. Sanchez* (2003) 113 Cal.App.4th 325, 330.) The fact circumstances can be reconciled with a contrary finding does not warrant reversal of the judgment. (*People v. Bean* (1988) 46 Cal.3d 919, 932–933.) Accordingly, a defendant “bears an enormous burden” when challenging the sufficiency of the evidence. (*Sanchez*, at p. 330.)

Section 12022.7 provides in relevant part, “(a) Any person who personally inflicts great bodily injury on any person other than an accomplice in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for three years. [¶] . . . [¶] (f) As used in this section, ‘great bodily injury’ means a significant or substantial physical injury.” (See *People v. Escobar* (1992) 3 Cal.4th 740, 749–750 (*Escobar*); *People v. Miller* (1977) 18 Cal.3d 873, 883 [construing great bodily injury in former sections 213 and 461 to mean “significant or substantial bodily injury or damage as distinguished from trivial or insignificant injury or moderate harm”]; see also CALCRIM No. 3163 [great bodily

injury means “significant or substantial physical injury. It is an injury that is greater than minor or moderate harm”].) Determining whether a victim has suffered physical harm amounting to great bodily injury is not a question of law for the court but a factual inquiry for the jury to resolve. (*Escobar, supra*, 3 Cal.4th at p. 750; *People v. Wolcott* (1983) 34 Cal.3d 92, 109.) ““A fine line can divide an injury from being significant or substantial from an injury that does not quite meet the description.”” [Citations.] *Where to draw that line is for the jury to decide.*” (*People v. Cross* (2008) 45 Cal.4th 58, 64 (*Cross*), italics added.)

Great bodily injury is “substantial injury *beyond* that inherent in the offense . . . .” (*Escobar, supra*, 3 Cal.4th at p. 746, original italics; see also *People v. Modiri* (2006) 39 Cal.4th 481, 492; *People v. Jefferson* (1999) 21 Cal.4th 86, 101.) But to be significant or substantial the injury need not be so grave as to cause the victim “‘permanent,’ ‘prolonged,’ or ‘protracted’” bodily damage. (*Escobar, supra*, at p. 750.) “Proof that a victim’s bodily injury is “great” — that is, significant or substantial within the meaning of section 12022.7 — is commonly established by evidence of the severity of the victim’s physical injury, the resulting pain, or the medical care required to treat or repair the injury.” (*Cross, supra*, 45 Cal.4th at p. 66.) “Abrasions, lacerations, and bruising can constitute great bodily injury.” (*People v. Jung* (1999) 71 Cal.App.4th 1036, 1042.)

Here, the evidence established Lassiter struck Pearson in the face. The blow caused significant bleeding and pain, and the resulting laceration required multiple stitches to close. The injury was beyond that inherent in the offense of willful infliction of corporal injury on a spouse. (*People v. Wilkins* (1993) 14 Cal.App.4th 761, 771 [section 273.5 is violated when defendant inflicts even minor injury; unlike other felonies

which require serious or great bodily injury, the Legislature has provided greater protection for persons in intimate relationships ““by requiring less harm to be inflicted before the offense is committed””].) We conclude the jury reasonably found Pearson’s injury was significant or substantial.

### III

#### DISPOSITION

The judgment is affirmed.

ARONSON, J.

WE CONCUR:

RYLAARSDAM, ACTING P. J.

FYBEL, J.