

Digest: People v. Miles

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Opinion by Baxter, J., expressing the unanimous view of the Court.

Issue

Did a defendant's 1976 federal judgment form constitute sufficient evidence that his conviction under 18 U.S.C. section 2113(a) was for the serious felony of bank robbery and thus qualify to enhance his sentences for the current offenses?

Facts

On December 27, 2002, defendant attempted to rob drivers in the parking lot of a shopping mall with a gun.¹ He ignored a responding police officer's order to drop the weapon and instead raised it at the officer.² The officer shot defendant five times to disable him and then disarmed him.³ A jury found defendant guilty of assault with a firearm upon a police officer, possession of a firearm by a convicted felon, four counts of attempted carjacking, and five counts of assault with a firearm.⁴

The prosecution alleged that the sentence enhancement under the Three Strikes Law applied because defendant had two prior serious felony convictions, a 1976 federal conviction and a 1972 California conviction for robbery.⁵ The only evidence of the 1976 conviction was a federal judgment form reciting that, on November 30, 1976, defendant was convicted, on his guilty plea, of "violation of 18 U.S.C. 2113(a) (d) (e), armed bank robbery and kidnapping," and a prison fingerprint card repeating the name of the offense.⁶

The trial court determined that defendant had two prior serious felony convictions and imposed a sentence of two hundred and nineteen years to life.⁷ Defendant appealed, arguing that the evidence was insufficient to prove that his 1976 federal conviction was for a California serious felony.⁸

¹ *People v. Miles*, 183 P.3d 1236, 1239 (Cal. 2008).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.* (citing CAL. PEN. CODE §§ 667(c)-(e), 1170.12(a)-(c)).

⁶ *Id.* at 1239-40.

⁷ *Id.* at 1240.

⁸ *Id.*

He argued that the terms "bank robbery" on the federal judgment form did not specify which offense under Section 2113(a) had been committed.⁹ The Court of Appeal affirmed, concluding that the "bank robbery" notation was a "clear reference" to the prong of the previous version of Section 2113(a) that coincided with the California serious felony of bank robbery.¹⁰ The Supreme Court of California granted review.¹¹

Analysis

The Court noted that, in 1976, Section 2113(a) specified two distinct types of offenses.¹² The first paragraph described the taking or attempted taking of bank property by force, violence or intimidation.¹³ The second paragraph described the entering of a bank with intent to commit a felony or larceny.¹⁴ Penal Code section 1192.7's description of bank robbery, which matched with the first paragraph of Section 2113(a), constituted a serious felony, which may enhance the sentence for a subsequent offense.¹⁵ However, since there is no serious felony that coincides with the second paragraph of Section 2113(a), "evidence that the defendant suffered a previous conviction under Section 2113(a), standing alone, cannot establish that the conviction was for a serious felony under California law."¹⁶

The Court articulated the principle that the elements of an alleged sentence enhancement must be proven beyond a reasonable doubt.¹⁷ The Court said that, if the record of the conviction is insufficient to prove that a serious felony occurred, the court must presume that the conviction was for the least serious form of the offense.¹⁸ However, the Court said, the jury may reasonably infer that an official government document in the record is truthful and accurate.¹⁹ Therefore, in *People v. Delgado*, the Court held that an abstract judgment's terse description of a prior conviction under Penal Code section 245(a)(1) raised the reasonable inference that the conviction was for assault with a deadly weapon under the serious felony prong of the statute.²⁰

The Court contrasted the present situation from *Delgado* in that Section 2113(a) did not use labels such as "robbery" or "bank robbery."²¹ However, the Court said, it may be reasonably inferred that the description in the federal judgment form referred to the serious felony prong because it

⁹ *Id.* at 1243.

¹⁰ *Id.* at 1240.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 1241 (citing CAL. PEN. CODE § 1192.7).

¹⁶ *Id.* (emphasis in original).

¹⁷ *Id.* (citing *People v. Tenner*, 862 P.2d 840 (Cal. 1993)).

¹⁸ *Id.* at 1242.

¹⁹ *Id.*

²⁰ *Id.* (citing *People v. Delgado*, 183 P.3d 1226 (Cal. 2008)).

²¹ *Id.* at 1243.

would be mere surplusage if intended to refer to the section as a whole.²² Further, the Court said, the term “robbery”, in both its legal and common usage, only corresponds to the offense of taking bank property by force, violence or intimidation.²³ The other offense described in Section 2113(a), on the other hand, was known in legal and common usage as a form of the crime of burglary.²⁴

The Court found that the legislative history supported its interpretation.²⁵ The Court said that the original statute contained only the first prong that was referred to as “robbery”; the statute was later amended to add a provision referred to as “entering,” “burglary” and “larceny.”²⁶ Thus, the Court said, there was strong support for the conclusion that the federal judgment form referred to the serious felony offense in its description of the crime as “bank robbery.”²⁷ Further, the Court said, it is highly unlikely that defendant could have pled guilty to an “armed” bank robbery that involved “kidnapping” only for entering a bank with felonious or larcenous intent.²⁸

Finally, the Court disapproved of the reasoning in *People v. Guerrero* to the extent that it held that a conviction record that merely refers to a statute that can be violated in more than one way establishes which way the statute was violated.²⁹

Holding

The Court held that the defendant’s 1976 federal judgment form constituted sufficient evidence that his conviction under 18 U.S.C. section 2113(a) was for the California serious felony of bank robbery and thus qualified to enhance his sentences for his current offenses.³⁰

Legal Significance

This decision establishes that a federal judgment form’s description of the offense and the statute under which a defendant was convicted may be sufficient to prove that the nature of the conviction was a California serious felony even when the crime referred to in the form does not directly correspond to the terms of the statute.

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 1244.

²⁵ *Id.*

²⁶ *Id.* at 1244–45 (citing Pub. L. No. 73-235 (May 18, 1094), Pub. L. No. 75-349 (Aug. 254, 1937)).

²⁷ *Id.* at 1245.

²⁸ *Id.* at 1245–46.

²⁹ *Id.* at 1249 n.14 (citing *People v. Guerrero*, 23 Cal. Rptr. 2d 803 (Ct. App. 1993)).

³⁰ *Id.* at 1250.