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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.

JULIAN JOE RIEL,

Defendant and Appellant.

G036592

(Super. Ct. No. 04WF0822)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, M. Marc Kelly, Judge. Affirmed.

James M. Crawford, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Mary Jo Graves, Chief Assistant Attorney General, Gary W. Schons, Assistant Attorney General, Rhonda Cartwright-Ladendorf and Erika Hiramatsu, Deputy Attorneys General, for Plaintiff and Respondent.

* * *

Appellant Julian Joe Riel was convicted of the felony of reckless evasion of a peace officer under California Vehicle Code section 2800.2 and driving without a valid license, a misdemeanor under section 12500, subdivision (a) of the same code. He was sentenced to the aggravated term of three years for the felony. The court struck two of his “Three Strikes” law priors for sentencing, but used the third to double his term for the reckless evasion and added another year for another prior. The resultant sentence was imprisonment for seven years.

Riel does not complain about the conduct of his trial, so a précis of its facts is not necessary. He complains only that his sentencing was improper. We find no flaw in the sentencing that we can address, and therefore affirm the conviction in its entirety.

* * *

Appellant complains that, “The trial court erred in imposing an aggravated term of imprisonment based on facts neither alleged in the information nor found true by a jury beyond a reasonable doubt.” He seeks reversal on the authority of *Blakely v. Washington* (2004) 542 U.S. 296.

Riel concedes this issue has been decided against him in *People v. Black* (2005) 35 Cal.4th 1238, and that, “*Black* is controlling at this time within the California courts” Nonetheless, he urges us, in the absence of a “published federal opinion on whether *Black* can be reconciled with the *Blakely* opinion,” to adopt his argument that “*Black* was wrongfully decided,” and order stricken those portions of the sentencing order which he feels violate *Blakely*.

But we are bound by our Supreme Court’s decision in *Black*. While we can understand Riel’s desire to preserve the issue for further review in the event the federal courts disagree with *Black*, we are not free to reassess Supreme Court precedent unless and until the United States Supreme Court weighs in on the issue. (See *Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.)

That day may come (see *People v. Cunningham* (Apr. 18, 2005, A103501) [nonpub. opn.] cert. granted *sub nom. Cunningham v. California*, Feb. 21, 2006, No. 05-6551, ___ U.S. ___, on the issue of whether *Blakely* applies to California’s sentencing law), but until it does, we have neither reason nor power to grant appellant relief. The judgment is affirmed.

BEDSWORTH, ACTING P. J.

WE CONCUR:

O’LEARY, J.

MOORE, J.