

APPENDIX A

Opinion, California Court of Appeal, Second Appellate District,
Division One, filed April 30, 2019

FILED

Apr 30, 2019

DANIEL P. POTTER, Clerk

jlozano

Deputy Clerk

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

ROOSEVELT STOLDEN,

Defendant and Appellant.

B290826

(Los Angeles County
Super. Ct. No. BA449605)

APPEAL from an order of the Superior Court of Los Angeles County. Ronald S. Coen, Judge. Affirmed.

Edward H. Schulman for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Susan Sullivan Pithey and William H. Shin Deputy Attorneys General, for Plaintiff and Respondent.

In 2015, Roosevelt Stolden engaged in four nonconsensual sex acts with a minor female over the course of approximately 30 minutes, and a jury found him guilty of four counts of lewd act upon a child. (Pen. Code, § 288, subd. (a).) At sentencing, the trial court found the sex acts, “were individual and . . . separate,” and Stolden “had time to reflect between each sex act.” (See Cal. Rules of Court, rule 4.425(a) [consecutive sentences appropriate where crimes involved separate acts].) The court sentenced Stolden to the low term of three years on one count plus consecutive two-year terms on the remaining counts, for a total of nine years in state prison.

Stolden contends the trial court’s decision to impose consecutive sentences based on its own factual findings violated his Sixth Amendment right to a jury adjudication of those facts under the principles enunciated in *Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [“any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt”].) Stolden acknowledges that the United States and California Supreme Courts have squarely concluded *Apprendi* does not apply to judicial factual findings bearing on whether multiple sentences are to be imposed consecutively or concurrently (e.g., *Oregon v. Ice* (2009) 555 U.S. 160, 168, 170; *People v. Black* (2007) 41 Cal.4th 799, 821 [although factual findings relating to the elements of a crime implicate the Sixth Amendment right to trial by jury, those relating to sentencing elements do not]), but he raises the contention to preserve it for later review. He also invites us to lodge our agreement with the dissenting opinion in *Oregon v. Ice* and dissatisfaction with California Supreme Court precedent. We will decline the invitation.

DISPOSITION

The conviction is affirmed.
NOT TO BE PUBLISHED.



CHANAY, Acting P. J.

We concur:



BENDIX, J.



WEINGART, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

APPENDIX B

Order of the California Supreme Court Denying Review,
filed July 10, 2019

Court of Appeal, Second Appellate District, Division One - No. B290826 JUL 10 2019

S256028

Jorge Navarrete Clerk

IN THE SUPREME COURT OF CALIFORNIA

Deputy

En Banc

THE PEOPLE, Plaintiff and Respondent,

v.

ROOSEVELT STOLDEN, Defendant and Appellant.

The petition for review is denied.

Kruger, J., was absent and did not participate.

CANTIL-SAKUYE

Chief Justice