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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM MARTIN AUSTIN,

Defendant and Appellant.

B271287

(Los Angeles County
Super. Ct. No. BA436643)

THE COURT:*

William Martin Austin (defendant) appeals his conviction for second degree robbery.

* ASHMANN-GERST, Acting P. J., HOFFSTADT, J.,
GOODMAN, J.[†]

[†] Retired judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

At a preliminary hearing, the People presented evidence that in May 2015, defendant entered a Ralph's market, took a shopping bag (99 cents for purchase) from the register, and filled it with bottles of shampoo. The manager on duty noted that defendant looked "upset" and was acting "suspicious[ly]," and alerted security. Shortly thereafter, the manager heard a commotion at the front of the store and saw defendant "ranting and raving" and yelling expletives at several employees. When the manager attempted to calm him down and remove him from the store, defendant became "very angry" and grabbed the manager's shirt, "slamming his fist" into the manager's chest and repeatedly threatening to "kill" him and "fuck [him] up." Defendant left the store and walked down the street with the shopping bag filled with shampoo bottles without paying.

In July 2015, defendant was charged with second degree robbery (Pen. Code, §§ 211 & 212.5, subd. (c)),¹ criminal threats (§ 422, subd. (a)), and misdemeanor battery (§ 242). While represented by counsel, defendant agreed to plead no contest to the robbery count and admit his prior "strike" conviction (§§ 667 & 1170.12). The trial court advised defendant of his statutory and constitutional trial rights, confirmed by oral exchange that defendant understood those rights and that defendant agreed to waive his rights by resolving his case by plea bargain. Defense counsel stipulated to a factual basis for the plea. The court accepted defendant's plea and admissions and, in accordance with the plea bargain, sentenced defendant to six years (the middle term of three years, doubled because of the prior strike). The court also imposed an additional prison term of six years for

¹ All further statutory references are to the Penal Code unless otherwise indicated.

his probation revocation in another case (BA401573-01), to run concurrently. On the People's motion, the remaining counts and allegations were dismissed.

Subsequently, defendant filed a notice of appeal and requested a certificate of probable cause, specifically challenging the validity of the plea. The trial court granted defendant's request.

DISCUSSION

Defendant challenges the validity of his plea—his request for a certificate of probable cause asserts that he did not understand the proceedings and that his efforts to understand “a number of [] issues” were “denied.” Under section 1237.5, a defendant may appeal from a judgment of conviction entered on a no contest plea after he has properly asserted his challenge to the validity of the appeal and obtained a certificate of probable cause for the appeal. (§ 1237.5; Cal. Rules of Court, rule 8.304(b); *People v. Mendez* (1999) 19 Cal.4th 1084, 1095.)

Defendant effectively challenges the voluntariness of his plea and asserts that he was not adequately advised of his statutory and constitutional rights. This argument is contradicted by the record, which reveals that after defendant was given ample time to confer with his attorney, the trial court advised defendant of his statutory and constitutional rights under *Boykin v. Alabama* (1969) 395 U.S. 238 and *In re Tahl* (1969) 1 Cal.3d 122, and of the consequences of accepting a plea bargain; defendant then orally told the court that he understood those advisements and “knowingly, expressly, and understandingly” waived his rights.

We appointed counsel to represent defendant in this appeal. After examining the record, counsel filed a brief raising

no issues and seeking our independent review of the record, pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *Anders v. California* (1967) 386 U.S. 738. On February 15, 2017, we advised defendant in writing that he had 30 days to submit any contentions or issues he wished us to consider. No response has been received to date.

The People presented sufficient evidence to support the finding that defendant committed second degree robbery, and defense counsel so stipulated. (§§ 211 & 212.5, subd. (c).) We have examined the entire record and are satisfied that defendant's attorney has fully complied with her responsibilities and that no arguable issues exist. (*Wende, supra*, 25 Cal.3d at p. 441.)

The judgment is affirmed.

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