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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

JULIAN AYALA PEREZ,

Defendant and Appellant.

B276317

(Los Angeles County
Super. Ct. No. LA083033)

APPEAL from a judgment of the Superior Court of Los Angeles County, Joseph Brandolino, Judge. Affirmed.

Kevin Smith, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury convicted appellant Julian Ayala Perez guilty of second degree robbery (count 1; Pen. Code, § 212.5, subd. (c)),¹ with a finding he personally used a firearm (§ 12022.53, subd. (b)). The jury found Perez not guilty of a charge of assault with a firearm involving the same victim (count 2; § 245, subd. (a)(2)). The trial court sentenced Perez to a low term of two years for the robbery, plus 10 years for the firearm enhancement. On appeal, Perez’s appointed counsel filed an opening brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). We affirm the judgment.

FACTS

As always, we summarize the facts established at trial in accord with well-established standards of review (see, e.g., *People v. White* (2014) 230 Cal.App.4th 305, 315, fn. 13.) On March 17, 2016, Raul Rivas (the victim) was at his job at a carwash, preparing to unload four bags of quarters from his car for the change machine used by customers, when he noticed a Jaguar with no front windshield pull into the car wash. This struck Rivas as “very strange, very suspicious,” and so he went to Sigfredo Bustillos, who was working at an auto parts business next door, and asked him to help unload the bags of quarters.

As Rivas and Bustillos returned to the car wash, Perez got out of the Jaguar with a shotgun. Perez held the shotgun in one hand and grabbed two bags of quarters with his other hand, then got back inside the car and drove away. A surveillance camera captured the incident on video, and Rivas also managed to take photographs of the Jaguar, its license plate, and Perez. Perez told Bustillos to call the police.

¹ All further undesignated section references are to the Penal Code.

Shortly after the robbery, Los Angeles Police Department Sergeant Michael McComas and his partner were driving in an unmarked car when they happened to see the Jaguar on Woodman Avenue, and followed it until it pulled into a residential driveway. Perez got out of the Jaguar and began “nonchalantly” walking across the grass as though he lived at the location. At about the same time, marked patrol cars and uniformed officers arrived upon the scene. The officers took Perez into custody. During a search of the car, the officers found a loaded shotgun in the front seat plus two bags of quarters, each containing \$500.

In May 2016, the People filed an information charging Perez as noted at the outset of this opinion. The charges were tried to a jury in July 2016, at which time the prosecution presented evidence establishing the facts that are summarized above. Rivas and Bustillos both identified Perez in court as the man who had committed the robbery at the car wash. Perez testified in his own defense. He admitted he took the bags of quarters, and that he had been carrying a shotgun, but asserted that he done so in fear of his life. According to Perez, he had been ordered to commit the robbery to pay off a debt to a drug dealer named Eric, who was a member of the San Fernando Vagos Gang. Perez testified that Eric had given the shotgun and Jaguar to Perez, and that Eric had said that he would be watching Perez to make sure he carried out the robbery. The trial court instructed the jury on duress as a defense to the robbery charged in count 1.

On July 13, 2016, after deliberating for about two and a half hours, the jury returned the verdicts noted at the outset of this opinion. The trial court thereafter sentenced Perez as we noted above.

Perez filed a timely notice of appeal.

DISCUSSION

We appointed counsel to represent Perez on appeal. Appointed counsel filed an opening brief on appeal pursuant to *Wende, supra*, 25 Cal.3d 436, in which he asked our court to review the record independently on appeal for any arguable issues. We notified Perez by letter that he could submit any arguments or issues that he wished our court to review. Perez filed a single paragraph letter which we address in the paragraphs that follow.

Perez argues: “If you look in the transcripts, I took my case into a speedy trial. I never took a plea deal.” This argument does not raise any cognizable, arguable issue.

Further, Perez argues: “The court . . . gave me a ten-year enhancement for a first time conviction.” This argument, too, does not raise any cognizable, arguable issue. Imposition of the 10-year firearm enhancement prescribed by section 12022.53, subdivision (b), is mandatory and not dependent on whether a conviction was a defendant’s first or subsequent conviction.

The two arguments noted are the extent of Perez’s letter to our court.

DISPOSITION

We have independently reviewed the record on appeal, and find that appointed counsel has fulfilled his duty, and that no arguable issues exist. (*Wende, supra*, 25 Cal.3d 436, *People v. Kelly* (2006) 40 Cal.4th 106.) The judgment is affirmed.

BIGELOW, P.J.

We concur:

RUBIN, J.

FLIER, J.