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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTOPHER J. GARDNER,

Defendant and Appellant.

B280028

(Los Angeles County  
Super. Ct. No. MA066996)

APPEAL from a judgment of the Superior Court for Los Angeles County, Kathleen Blanchard, Judge. Affirmed.

Emily L. Brough, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury convicted defendant Christopher J. Gardner of forgery relating to a bill, note, or check exceeding \$950 in value, in violation of Penal Code<sup>1</sup> sections 476 and 473, subdivision (a); defendant subsequently admitted he suffered a prior conviction of a strike offense within the meaning of sections 667, subdivision (d) and 1170.12, subdivision (b). He was sentenced to a total term of 32 months in state prison, and appeals from the judgment of conviction. We affirm.

## **BACKGROUND**

Defendant was charged by information with one count of forgery relating to a bill, note, or check exceeding \$950 in value; the information also alleged that defendant had suffered a prior conviction for attempted robbery (§ 664/211), a serious and/or violent felony, and was subject to sentencing under the Three Strikes law (§§ 667, subds. (b)-(i), 1170.12).

The following evidence was presented at trial:

On September 12, 2015, Wells Fargo personal banker Lindsay Nielan was working at a Wells Fargo Bank in East Lancaster when she was asked by a teller to verify a check that a man, identified as defendant, was attempting to cash. The check indicated it was from JSW Duo Marketing, LLC (JSW), and was made out to defendant in the amount of \$961.80. Nielan asked defendant for two forms of identification to the teller, and he gave her a California identification card and a Visa card.

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<sup>1</sup> Further undesignated statutory references are to the Penal Code.

Because JSW had a Wells Fargo account, Nielan was able to compare the check defendant presented with other checks from JSW. She discovered that the checks did not match, so she called the owner of JSW to determine whether JSW had issued defendant's check. The owner told Nielan that JSW had not issued that check. Nielan called the police. While Nielan was calling the police defendant, who had been waiting at the teller's window, walked out of the bank, leaving his identification behind, and left in a blue Chrysler.

A week later, a detective from the Los Angeles County Sheriff's Department went to defendant's home. When he arrived, defendant was outside, checking the oil on a blue Chrysler. He placed defendant under arrest and placed him in the back of his patrol car. After reading defendant his *Miranda* rights, he questioned defendant about the check. Defendant admitted that he tried to cash the check, and said that it was given to him by his friend Calvin, who told him to cash it and give him 10 percent of the proceeds. When the detective asked defendant if he thought that sounded like a scam or a hustle, defendant responded, "Well, when you put it like that, it does," and said that Calvin had set him up.

Based on this evidence, the jury found defendant guilty as charged. The defendant subsequently admitted the prior strike allegation, and the court found it to be true. At sentencing, the trial court denied defendant's motion to strike the prior strike finding, and sentenced defendant to the low term of 16 months, doubled under the Three Strikes law, for a total term of 32 months.

## DISCUSSION

Defendant's appointed counsel on appeal filed an opening brief under *People v. Wende* (1979) 25 Cal.3d 436, asking this court to review the record to determine whether any arguable issues exist. We notified defendant that he had 30 days to file a supplemental brief raising any contentions or arguments he wished this court to consider. No such brief has been filed.

We have examined the entire record and are satisfied that no arguable issues exist and that defendant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment. (*Smith v. Robbins* (2000) 528 U.S. 259, 278.)

## DISPOSITION

The judgment is affirmed.

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

COLLINS, J.