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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.

MIGUEL ARANA,

Defendant and Appellant.

B284751

(Los Angeles County
Super. Ct. No. BA446115)

APPEAL from a judgment of the Superior Court of Los Angeles County, Norman J. Shapiro, Judge. Affirmed with directions.

Bahar Law Office and Sarvenaz Bahar for Defendant and Appellant.

No Appearance for Plaintiff and Respondent.

Miguel Arana appeals from a judgment convicting him of first degree residential burglary (Pen. Code, § 459).¹ Arana's appellate counsel filed an opening brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) summarizing the facts in this case and the procedural history, but raising no issue, and asked this court to independently review the record, including the sealed record of an in camera review of police officer personnel records conducted pursuant to *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, 538 (*Pitchess*). On May 24, 2018, the clerk of this court advised Arana that he had 30 days to submit any contentions or argument that he wished this court to consider. We received no response.

FACTUAL AND PROCEDURAL BACKGROUND

1. *The Burglary*

On April 22, 2016, around noon, a witness watched through a window in her house as two men broke into a house across the street, located at 2959 Wellington Road in the City of Los Angeles. The two men removed items from the house and loaded them into a car parked on the street. A police helicopter flew overhead, and police cars blocked off the street. The two men ran away through the backyard. The witness or her father made a video recording of the men breaking into the house.

Officer Edgar Sanchez of the Los Angeles Police Department (LAPD) responded to a call of a burglary in progress. He parked his marked police car one block from the house and saw two men carrying a large television set, still in the box, out the front door to a car parked on the street. Officer Sanchez saw

¹ All undesignated section references are to the Penal Code.

the two men run away when a helicopter passed close overhead. Officer Sanchez drove closer, got out of his car, and ran toward the two men, who began running in different directions. One of the men ran to the backyard. Officer Sanchez returned to his police car, drove around the block, and drove along the street while watching the man run through backyards and jump over fences. Officer Sanchez stopped and waited when he did not see the man running any farther.

A short time later, a police search dog and handler found Arana and Darius King in the crawl space under the house at 3017 Wellington Road. Officer Chad Fillinger of the LAPD saw Arana and King being detained and prepared the arrest report.

Akilah Kidd was the owner of the car parked in front of the house that was filled with items taken from the house. Kidd and Arana had a daughter together and a relationship that was on and off. According to Kidd, on April 22, 2016, she asked Arana to drive her son to school and left her car keys for Arana on a table in her living room. Around noon or 1:00 p.m. that day, she received a phone call from Arana with a lot of commotion on the line, stating either that the police were after him or that he was already in custody.

King testified at trial, having already been convicted of the burglary. King stated that on the day of the burglary he saw Arana intoxicated and sleeping at a friend's house, and took the car keys. King stated that he then drove the car to Wellington Road where he and another individual committed the burglary. According to King, after entering the house on Wellington Road he called Arana and asked him to come pick up the car because King did not want to be caught driving a car with stolen goods. King testified that Arana was walking toward him as King was

putting the television in the car, and when they saw the helicopter overhead they both ran away in different directions, and King's accomplice also ran away. King stated that after running in different directions he and Arana crossed paths and then hid together under a house.

2. *Procedural History*

On September 8, 2016, the district attorney filed an information charging Arana with one count of first degree residential burglary (§ 459), and alleging that Arana had suffered a prior robbery conviction, constituting both a strike under the three strikes law (§§ 667, subds. (b)-(j) 1170.12) and a serious felony conviction for purposes of section 667, subdivision (a).

The defense filed a *Pitchess* motion seeking discovery of any personnel records of a Detective Hope of the LAPD relating to accusations of misconduct involving dishonesty. Detective Hope had prepared an investigative report stating that Kidd stated that she believed that Arana entered her home while she was sleeping and stole her car. According to the report, Kidd stated that Arana called her stating that he was hiding from the police and that her car was probably being impounded, and she then attempted to report the vehicle as stolen but was told that it had already been impounded. Defense counsel declared on information and belief that, in fact, Kidd did not state that Arana had taken her car without her permission.

The trial court granted the *Pitchess* motion, conducted an in camera review of the police personnel records, and found that there were no discoverable materials.

While he was free on bond, Arana was arrested for committing a robbery on November 14, 2016. Arana pled nolo

contendere to the robbery charge (Super. Ct. L.A. County, No. YA905365).

On June 16, 2017, a jury found Arana guilty of first degree residential burglary. Arana admitted the allegation of the prior robbery conviction.

On July 18, 2017, the trial court in case No. YA905365 sentenced Arana to six years in prison. On August 7, 2017, however, the court granted the prosecutor's motion to resentence Arana in that case and reduced his sentence to two years in prison.

On August 7, 2017, the trial court in this case sentenced Arana to a total of 13 years in prison, consecutive to the two-year term in case No. YA905365. The 13-year term consists of the middle term of four years, doubled under the three strikes law, plus five years for the prior serious felony (§ 667, subd. (a)(1)). The court imposed assessments and restitution fines and awarded a total of 534 days of custody credit.

REVIEW ON APPEAL

We have examined the entire record, including the sealed record of the in camera review, and are satisfied that Arana's appellate counsel has fully complied with counsel's responsibilities, and that no arguable issue exists. By virtue of his counsel's compliance with the *Wende* procedure and our review of the record, Arana has received adequate and effective appellate review of the judgment. (*Smith v. Robbins* (2000) 528 U.S. 259, 278–279; *People v. Kelly* (2006) 40 Cal.4th 106, 118–119; *Wende, supra*, 25 Cal.3d at pp. 441–442.)

Our review of the record revealed a clerical error in the abstract of judgment. The abstract of judgment indicates that

Arana was convicted of burglary by plea, when in fact he was convicted by jury. Although “the abstract of judgment is not itself the judgment of conviction,” it is intended to accurately summarize the judgment. (*People v. Delgado* (2008) 43 Cal.4th 1059, 1070.) This court has the authority to correct clerical errors in the abstract of judgment. (*People v. Mitchell* (2001) 26 Cal.4th 181, 186–187.)

DISPOSITION

The judgment is affirmed. The superior court clerk is directed to amend the abstract of judgment to state that Arana was convicted by jury in this case and not by plea, and forward a copy of the amended abstract to the Department of Corrections and Rehabilitation.

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MICON, J.*

We concur:

MANELLA, P. J.

WILLHITE, J.

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