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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.

FRANCISCO JOSE MARTINEZ,

Defendant and Appellant.

B232950

(Los Angeles County  
Super. Ct. No. BA376362)

APPEAL from a judgment of the Superior Court of Los Angeles County, Monica Bachner, Judge. Affirmed.

Shona L. Armstrong, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Francisco Jose Martinez appeals his conviction by jury verdict of second degree robbery, a violation of Penal Code section 211. The information charged appellant with one count of second degree robbery and alleged that appellant personally used a deadly and dangerous weapon, a knife, in the commission of the robbery. Appellant pleaded not guilty.

At trial, Carlos Cisneros testified that appellant and two others knocked him to the ground, kicked him, and took \$43 from his pocket. Cisneros testified that appellant brandished a knife during the robbery. After the attack, Cisneros called the police who arrived within a few minutes. The officers obtained a description of the attackers and the direction in which they fled. The officers saw two men, appellant and co-defendant, Miguel Miranda, who matched Cisneros's description of his attackers, running in the direction provided by Cisneros. The officers apprehended and detained the defendants. A knife was discovered on the ground nearby. Cisneros, having followed the police car, arrived at the scene and identified both defendants as two of his attackers and identified the knife as the one brandished by appellant during the attack. The third attacker was not apprehended.

A jury convicted appellant of second degree robbery and found true the allegation that he used a knife during the attack. He was sentenced to a total of three years in prison with credit for time already served.

After appellant filed a timely notice of appeal, this court appointed counsel to represent him. On October 18, 2011, appointed counsel filed an appellate brief raising no issues, but asking this court to independently review the record on appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441-442. (See *Smith v. Robbins* (2000) 528 U.S. 259, 264.)

We advised appellant he had 30 days within which to submit by brief or letter any contentions or argument he wished this court to consider. Appellant filed a letter brief raising two issues. First, he contends that the evidence was insufficient to support his conviction. Second, he claims ineffective assistance of counsel based on his trial

attorney's failure to challenge the admission of the in-field identification procedure used by the arresting officers.

*A. Sufficiency of the Evidence*

Appellant's challenge to the sufficiency of the evidence has no arguable support in the record. "In reviewing a claim for sufficiency of the evidence, we must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime or special circumstance beyond a reasonable doubt. We review the entire record in the light most favorable to the judgment below to determine whether it discloses sufficient evidence—that is, evidence that is reasonable, credible, and of solid value—supporting the decision, and not whether the evidence proves guilt beyond a reasonable doubt. [Citation.] We neither reweigh the evidence nor reevaluate the credibility of witnesses. [Citation.] We presume in support of the judgment the existence of every fact the jury reasonably could deduce from the evidence. [Citation.] If the circumstances reasonably justify the findings made by the trier of fact, reversal of the judgment is not warranted simply because the circumstances might also reasonably be reconciled with a contrary finding." (*People v. Jennings* (2010) 50 Cal.4th 616, 638–639 (*Jennings*).)

Appellant rests his challenge on Cisneros' credibility. Since we do not reevaluate a witness' credibility (*Jennings, supra*, 50 Cal.4th at p. 638), there is no support for appellant's claim.

*B. Ineffective Assistance of Counsel*

Appellant claims ineffective assistance of counsel based on his trial counsel's failure to challenge the in-field identification procedure used by the arresting officers. "In assessing claims of ineffective assistance of trial counsel, we consider whether counsel's representation fell below an objective standard of reasonableness under prevailing professional norms and whether the defendant suffered prejudice to a reasonable probability, that is, a probability sufficient to undermine confidence in the outcome. [Citations.] A reviewing court will indulge in a presumption that counsel's performance fell within the wide range of professional competence and that counsel's

actions and inactions can be explained as a matter of sound trial strategy. . . . If the record on appeal sheds no light on why counsel acted or failed to act in the manner challenged, an appellate claim of ineffective assistance of counsel must be rejected unless counsel was asked for an explanation and failed to provide one, or there simply could be no satisfactory explanation. [Citation.]” (*People v. Gamache* (2010) 48 Cal.4th 347, 391; see *Strickland v. Washington* (1984) 466 U.S. 668, 694.)

Here, the record sheds no light on counsel’s actions, and there is nothing to show that the in-field identification procedure was impermissibly suggestive and unreliable. (See *Neil v. Biggers* (1972) 409 U.S. 188, 196-197; *People v. Cowger* (1988) 202 Cal.App.3d 1066, 1071-1072.)

We have examined the entire record and are satisfied that no arguable issues exist on appeal. Accordingly, we affirm the judgment of conviction.

#### **DISPOSITION**

The judgment is affirmed.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

SUZUKAWA, J.