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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.

ERIC LIONELL COOPER,

Defendant and Appellant.

B236498

(Los Angeles County  
Super. Ct. No. SA076227)

APPEAL from a judgment of the Superior Court of Los Angeles County,  
H. Chester Horn, Judge. Affirmed.

Ann Krausz, under appointment by the Court of Appeal, for Defendant and  
Appellant.

No appearance for Plaintiff and Respondent.

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Defendant Eric Lionell Cooper appeals from the judgment entered after jury trial in which he was convicted of second degree robbery (Pen. Code, § 211) with enhancements under sections 667, subds. (b)-(i) and (a)-(d) and 667, subd. (a)(1) of that code. His appointed counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, in which she states that she finds no arguable issue to raise on appeal and asks that the court make an independent review of the record to determine if there is any such issue. On March 21, 2012, we wrote to defendant inviting him to submit by brief or letter any grounds of appeal, contention or argument he wishes this court to consider. To date we have received no response.

We have conducted an independent review pursuant to the Supreme Court's direction in *Wende*. Having done so, we find no arguable issue on appeal.

### **FACTUAL AND PROCEDURAL SUMMARY**

Following a felony preliminary hearing at which defendant was ordered to answer on charges filed by the Los Angeles District Attorney, an information was filed charging defendant with violation of the felony and enhancements cited above. The evidence summarized below was presented at the ensuing jury trial.

Indirah Roa Sandoval was employed as a sales person at the Metro PCS store located in the City of Hawthorne, California. She was at work at that location on the morning of November 18, 2010, cleaning a glass display case. The store register had \$150 and the amount of a payment made by a customer shortly after the store opened. Not long after that, defendant and another man entered the store. Ms. Sandoval asked if she could help them or if they were there to pay a bill. One of the men responded, "You know why I'm here for." He was at her back, and she felt the point of something at her back. She thought it was a gun, particularly when the man said, "You know what this is." The man, still at her back, pushed her so that she was in front of the counter where the cash register was located. The other man was at the front of the store. Ms. Sandoval opened the register in response to a command to do so by the man at her back. The other man then took the money out of the register. The man with the gun then led Ms.

Sandoval to the back room of the store, where he took her to the bathroom and told her to wait ten minutes and “don’t call nobody.” She waited, because she was afraid, then made a call. The store manager arrived, as did police. She found her opened handbag on the floor of the store; it had been rifled but nothing had been taken from it. The money in the register had been taken. Two cell phones had been taken from the glass display case. Ms. Sandoval was looking down during the encounter with the two men, and was not able to identify them, other than to say they were young African-American men, about her age (26 years old) and that one of them wore a hoodie and the other a hat. Later, when shown photographs, Ms. Sandoval was unable to make an identification. While being interviewed by police Ms. Sandoval saw a gun on the floor. It turned out to be a “BB” pellet gun.

One of the responding police officers, who had been trained in the lifting of fingerprints, lifted fingerprints from the glass case. Kimberle Swobodzinski, a trained and experienced forensic technician with the Gardena Police Department, took fingerprints from defendant while he was in custody and compared them with the prints lifted at the store. She compared the prints taken from defendant with those lifted by the officer at the scene; they were from the same person.

After being arrested and read his *Miranda*<sup>1</sup> rights, which he waived, defendant answered questions. He said he had never been in the store where the robbery occurred. He denied committing the robbery.

The final witness in the case was Anna Alvarado, who testified that defendant, with another man, committed a robbery at a cell phone shop where she worked in July 2006. She identified him in court as the same person who committed that robbery, using what appeared to be a gun. Later, defendant “took responsibility” for that crime.

Counsel stipulated that the gun used in the 2006 robbery was a BB gun and that money was taken from a cash register in that robbery.

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<sup>1</sup> *Miranda v. Arizona* (1966) 384 U.S. 436.

Defendant's motion for acquittal pursuant to Penal Code section 1118 (actually, section 1118.1 since this was a jury trial) was denied. Outside the presence of the jury, defendant waived his right to jury trial for the 2006 prior felony conviction for which he served prison time.

The jury was instructed, counsel presented argument, and the jury returned a verdict of guilty of the crime charged.

The prosecution sought a high-term sentence. The court, instead, imposed the mid term, 3 years, doubled because of his prior serious felony conviction to 6 years, plus the 5-year enhancement for the prior prison term, for a total of 11 years. A timely notice of appeal was filed.

#### **DISPOSITION**

The judgment of conviction is affirmed.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

MANELLA, J.