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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.

BOBBIE LEE HOUSTON,

Defendant and Appellant.

B280880

(Los Angeles County  
Super. Ct. No. NA105003)

APPEAL from a judgment of the Superior Court of Los Angeles County. James D. Otto, Judge. Affirmed.

Julia J. Spikes, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Defendant Bobbie Lee Houston was charged by amended information with one count of carjacking (Pen. Code, § 215, subd. (a)). It was also alleged that he suffered two prior strikes, had served two prison terms, and had two serious felony convictions (§§ 667.5, subd. (b), 667, subd. (a)(1), 1170.12). He was convicted by jury of the carjacking count, and admitted the special allegations.

The trial court granted defendant's motion to strike one of his strike convictions. Defendant was sentenced to an aggregate term of 23 years in prison, consisting of the high term for carjacking, doubled because of the strike prior, plus five years for his serious felony conviction.

The following facts were adduced at trial. On March 11, 2016, Antoine Nguyen was pumping gas into his red Hyundai SUV at Scotty's Gas and Food Mart in Long Beach. As he was sitting in his car he noticed defendant approach, pull the gas pump from his vehicle, and walk up to the driver's side door. Defendant opened the door, pointed the gas nozzle at Mr. Nguyen, and told him to get out of the car or he would "light" him. Defendant started to reach for his pocket, and Mr. Nguyen was afraid that defendant had a weapon, or would light him on fire. Mr. Nguyen ran out of the car and screamed for help. As Mr. Nguyen was running away, defendant threw the gas pump to the ground and sped away in Mr. Nguyen's car. The gas station attendant called 911.

Long Beach Police Officer Christian Moody received a radio call for the stolen SUV. As he was traveling in the direction the suspect had reportedly fled, he saw defendant stuck in traffic, standing outside of a red SUV, and noticed the vehicle's fuel cap was hanging outside the fuel door. Believing defendant was the

suspect, Officer Moody pursued defendant, who started to drive away. Defendant ultimately pulled over and was taken into custody.

Officer Eric McGowan transported Mr. Nguyen to a field show up, and Mr. Nguyen identified defendant as the person who took his car.

Defendant testified that on the day of the incident, he had not slept in seven or eight days, was under the influence of methamphetamine and alcohol, and was hallucinating. He thought the red SUV belonged to him, and told Mr. Nguyen to “get out of my car.”

Officer McGowan offered rebuttal testimony that defendant did not appear to be under the influence at the time of his arrest, or experiencing any delusions.

Defendant filed a notice of appeal. We appointed appellate counsel to represent him. Appointed counsel filed a brief in which no issues were raised. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). Defendant filed a supplemental brief with this court, raising a number of issues, such as instructional error, ineffective assistance of counsel, implausibility of witness testimony, and prosecutorial misconduct.

Defendant has not raised any arguable appellate issues. His claims of error are not supported by any legal analysis. “Where a point is raised in an appellate brief without argument or legal support, ‘it is deemed to be without foundation and requires no discussion by the reviewing court.’ [Citation.]” (*People v. Murray* (2008) 167 Cal.App.4th 1133, 1143.) Defendant’s failure to provide legal argument or authority forfeits these issues on appeal. (*People v. Hovarter* (2008)

44 Cal.4th 983, 1029; *People v. Meyer* (1963) 216 Cal.App.2d 618, 635.)

Notwithstanding defendant's failure to support the claims of error in his supplemental brief, we have examined the entire record, and are satisfied that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106; *Wende, supra*, 25 Cal.3d 436.)

Defendant claims he was prejudiced by CALCRIM No. 226, the standard instruction on how to evaluate the credibility of witnesses. There is nothing objectionable about this standard instruction. (See Evid. Code, § 780.)

Defendant also contends the trial court improperly struck a question asked by defense counsel, when no motion to strike was pending. It is well settled that a court may make and sustain its own objections. (Pen. Code, § 1044.)

Defendant also contends he received ineffective assistance of counsel because his attorney did not adequately investigate the case, did not ask questions he wanted her to ask, and did not introduce evidence of defendant's mental state. We can discern no ineffective assistance of counsel on the record before us. (*People v. Mitchell* (2008) 164 Cal.App.4th 442, 467; see also *People v. Mendoza Tello* (1997) 15 Cal.4th 264, 266-267.)

Defendant also contends the prosecutor committed misconduct. When the prosecutor was cross-examining defendant, he asked what kind of beer defendant had been drinking. Defendant responded "211." The prosecutor quipped, "A 211? And 211 – Kind of interesting."<sup>1</sup> Defense counsel did not object. We can hardly imagine that the jury "construed or

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<sup>1</sup> Penal Code section 211 is the robbery statute.

applied . . . the complained-of remark[] in an objectionable fashion.” (*People v. Samayoa* (1997) 15 Cal.4th 795, 841.)

Lastly, defendant complains that Officer Moody’s testimony that he saw the gas cap of the SUV was dislodged was implausible. We find nothing implausible about this testimony.

**DISPOSITION**

The judgment is affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

FLIER, J.