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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

JACOB LAINEZ,

Defendant and Appellant.

B284080

(Los Angeles County
Super. Ct. No. BA432307)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Ronald S. Coen, Judge. Affirmed.

Tracy J. Dressner, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Jacob Lainez appeals from the judgment after a jury convicted him of first degree felony murder and second degree robbery. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Los Angeles Police Officer Judith Romo and her partner were responding to a radio call when pedestrians flagged them down and reported a robbery and assault. Officer Romo entered a medical marijuana dispensary and found the owner, Aran Sashoyan, on the floor of the front office in a pool of blood. Officer Romo called for an ambulance and additional officers.

Detective Armando Acero responded and noticed several video cameras inside and outside the dispensary. Acero recovered the video recording, which displayed four views of the interior and exterior of the dispensary. The recording showed three men wearing baseball hats and gloves enter the reception area. One of the men, who was larger than the other two, resembled Lainez, who was approximately 6 feet 2 inches tall and weighed 270 pounds. The three men waited in the reception area while Sashoyan helped another customer in the salesroom. When the customer left through the security door, the large man grabbed the door and propped it open with a chair. The first man entering through the security door, drew a handgun, and approached Sashoyan, who was coming out of the front office. Sashoyan and the man began struggling over the gun. The large man joined the fight. He tackled Sashoyan and repeatedly kicked and punched him in the head. The gunman pistol-whipped Sashoyan, while the large man held Sashoyan down.

Meanwhile, the third man grabbed cash from the drawers and marijuana from the counters, which he put inside cloth sacks and carried to the reception area. When the third man had finished gathering the cash and marijuana, he walked up to the large man and tugged on the back of his shirt. The large man ignored him and continued to help the gunman beat Sashoyan, who continued to fight back. The third man again pulled on the back of the large man's shirt. This time, the large man turned and fled from the dispensary with the third man and headed south. Less than a minute later, the gunman shot Sashoyan twice in the head, ran from the dispensary, and also headed south.

Sashoyan suffered contusions, lacerations, and abrasions to his face and scalp. He died from the gunshot wounds, with blunt force trauma as a contributing cause of death.

When the police searched the store, they found a latex glove fragment near the body, a walkie-talkie on the ground, and a bullet under the desk. A second bullet was extracted from the wall. The police found two more latex glove fragments on the sidewalk 30 feet south of the store entrance. The fragments had red stains that tested positive for blood. Following Lainez's arrest, the police obtained a DNA sample from him by swabbing his mouth and matched it to a DNA sample taken from the inside of one of the glove fragments.

Lainez did not testify or introduce any other evidence in his defense. During closing argument, counsel for Lainez acknowledged Lainez was at the scene, but argued that there was no evidence he knew the shooting was going to occur and that Sashoyan was not killed until Lainez had left the dispensary.

The People charged Lainez with one count of murder during the commission of a robbery (Pen. Code, §§ 187, 190.2, subd. (a)(17)) and second degree robbery (Pen. Code, § 211). He pleaded not guilty to the charges and denied the robbery special circumstance allegation. The jury convicted Lainez as charged and found true the special circumstance allegation.

The trial court sentenced Lainez to life imprisonment without the possibility of parole for the first degree murder conviction with the special circumstances finding. The court imposed and stayed execution of a term of three years for the robbery conviction. Lainez timely appealed.

DISCUSSION

We appointed counsel to represent Lainez in this appeal. After reviewing the record, counsel filed an opening brief raising no issues. On December 22, 2017 we gave Lainez notice that he had 30 days to submit a brief or letter raising any grounds of appeal, contentions, or arguments he wanted us to consider. We have not received a response.

We have examined the record and are satisfied appellate counsel for Lainez complied with her responsibilities and there are no arguable issues. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.)

DISPOSITION

The judgment is affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

FEUER, J.*

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