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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

EIVAN CASAS,

Defendant and Appellant.

B271738

(Los Angeles County
Super. Ct. No. KA110350)

APPEAL from a judgment of the Superior Court of Los Angeles County, Juan Carlos Dominquez, Judge. Affirmed.

Jerome J. Haig, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

An amended information charged Eivan Casas with burglary (Pen. Code, § 459; count 1),¹ three counts of assault with a deadly weapon (§ 245, subd. (a)(1); counts 2, 4 & 6), vandalism (§ 594, subd. (a); count 8), and three counts of criminal threats (§ 422, subd. (a); counts 9-11).² The amended information also alleged Casas used a deadly and dangerous weapon in the commission of each criminal threats offense (a sledge hammer as to count 9, a wooden object as to count 10, and a tire iron as to count 11). (§ 12022, subd. (b)(1).)

Casas made three pretrial *Marsden* motions,³ which the trial court denied, after holding a hearing outside the presence of the prosecutor on each motion.

Substantial evidence presented at trial demonstrated that on August 4, 2015, Casas went to the home of his stepfather, Pedro Marquez, broke Marquez's bedroom window with a sledgehammer, entered the home through the broken window, threatened to kill Marquez, and raised the sledgehammer. It appeared to Marquez that Casas was "ready to attack" with the sledgehammer, so Marquez fled outside and called the police. Casas was present when officers arrived, and Marquez believed they were going to arrest him.

The following day, as Marquez exited his home and walked to his car, Casas approached, threatened to kill him, and struck

¹ Further statutory references are to the Penal Code.

² Prior to trial, on the prosecutor's motion, the trial court dismissed three counts of attempted murder charged in the amended information.

³ *People v. Marsden* (1970) 2 Cal.3d 118.

him on the head with a wooden object. Casas fled and was not present when officers arrived.

On August 6, 2015, Casas returned to Marquez's home and broke windows with a tire iron. Marquez ran outside to call the police. Casas followed, threatening to "screw [Marquez] up." As Casas fled to his neighbor's home, Marquez caught up to him and struck him with the tire iron. After Marquez entered his neighbor's home, Casas used the tire iron to break several of the neighbor's windows. The neighbor, who owned both his own home and the home he rented to Marquez, testified at trial about the cost to replace the 10 broken windows at the two properties. Officers took Casas into custody on August 6, 2015.

The jury found Casas guilty of first degree burglary, three counts of assault with a deadly weapon, vandalism, and three counts of criminal threats. The jury further found the deadly and dangerous weapon enhancement (§ 12022, subd. (b)(1)) to be true, as to each count of criminal threats.

The trial court sentenced Cases to a total of eight years and eight months in state prison: the upper term of six years for the burglary,⁴ a consecutive one-year term for each of the two assaults with a deadly weapon in counts 4 and 6 (one-third the middle term of three years), and a consecutive eight-month term for the vandalism (one-third the middle term of 24 months). Pursuant to section 654, the court imposed and stayed the

⁴ In imposing the upper term, the trial court found several circumstances in aggravation under California Rules of Court, rule 4.421, including that the crime involved a threat of great bodily injury, that Casas was armed with a weapon, and that the victim was vulnerable.

sentence on the assault with a deadly weapon in count 2⁵ (the middle term of three years) and the three counts of criminal threats (the middle term of two years, plus one year for the weapon enhancement, on each count). The court also ordered Casas to pay fines, assessments, and restitution to the property owner, the victim of the vandalism.

Casas appealed. We appointed counsel to represent him on appeal. After examination of the record, counsel filed an opening brief raising no issues and asking this court to review the record independently pursuant to *People v. Wende* (1979) 25 Cal.3d 436. On December 30, 2016, we advised Casas that he personally had 30 days to submit any contentions or issues he wished us to consider. We also directed his appointed counsel to send the record and opening brief to Cases immediately. To date, we have received no response from Casas.

We have examined the entire record, including the confidential reporter's transcripts from the December 4, 2015, January 21, 2016, and March 8, 2016 hearings on Casas's *Marsden* motions, and are satisfied that Casas's appellate counsel has fully complied with his responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109-110; *People v. Wende, supra*, 25 Cal.3d at p. 441.)

⁵ Casas committed this offense and the burglary during the same incident.

DISPOSITION

The judgment is affirmed.
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CHANEY, J.

We concur:

ROTHSCHILD, P. J.

LUI, J.