

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSHUA HURTADO,

Defendant and Appellant.

B284928

(Los Angeles County
Super. Ct. No. MA070972)

APPEAL from a judgment of the Superior Court of Los Angeles County. Kathleen Blanchard, Judge. Affirmed.

Stephane Quinn, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

* * * * *

Defendant and appellant Joshua Hurtado, also known as Joshua Huerta, appeals from his conviction by jury of second degree robbery. We affirm.

In May 2017, an information was filed against defendant, and two codefendants (who are not parties to this appeal), charging them with one count of second degree robbery. (Pen. Code, § 211.) Defendant pled not guilty.

The charges arose from an incident on April 10, 2017, in which defendant and his accomplices confronted a customer at a gas station and demanded money. Two of them initially confronted the victim near the rear of the victim's truck. Defendant approached the victim from the front of the truck. One of the accomplices at the back of the truck eventually snatched the wallet from the victim.

The victim was able to get into his truck and drive away. He parked a short distance from the gas station and called 911. Based on the victim's description of the individuals and their car (a gold sedan), sheriff deputies located the car a short time later and pulled it over. The individuals, including defendant, were detained. The victim's wallet was found in the car and returned to the victim.

At the preliminary hearing, the court denied defense counsel's request for dismissal and defendant was held to answer. The case proceeded to a jury trial in August 2017.

The victim attested to the events of April 10, 2017. His testimony was substantially similar to his testimony at the preliminary hearing.

Defendant testified in his own defense. He admitted being with the two codefendants that evening, along with another friend of his named Adam. He admitted they went to the gas

station. Defendant said however that he went inside to get something to drink and had no idea that the two codefendants had confronted the victim and were trying to rob him. Defendant attested he did not have enough money to make his purchase, so he went outside and asked the victim if he had any change. Defendant saw the two codefendants standing near the rear of the truck. The victim told him to “back up” and then got in his truck and drove away.

The jury found defendant guilty of second degree robbery. Defense counsel submitted a sentencing memorandum to the court that included various statements on defendant’s behalf, including one from his employer who indicated he was a good, hard-working employee.

The court sentenced defendant to the low term of two years, awarded defendant 158 days of custody credits and imposed various fines.

Defendant filed a timely notice of appeal.

We appointed appellate counsel to represent defendant. Appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) in which no issues were raised. The brief included a declaration from counsel that she reviewed the record and sent a letter to defendant explaining her evaluation of the record. Counsel further declared she advised defendant of his right, under *Wende*, to submit a supplemental brief within 30 days.

Defendant submitted a two-page handwritten letter that raises no cognizable claims. Defendant states only that he asked “the court” about a video surveillance tape from the gas station, but it was never brought up at trial. No further information is provided as to whether defendant is purporting to claim

ineffective assistance of counsel or some other argument. To the extent defendant is asserting ineffective assistance in failing to present a surveillance tape (assuming one exists), tactical decisions of counsel are generally not reversible on direct appeal, but rather must be challenged on habeas corpus. (See, e.g., *People v. Bolin* (1998) 18 Cal.4th 297, 333-334.) Defendant also asserts the victim allegedly testified differently at the preliminary hearing and at trial, a point belied by the record. Defendant requests assistance because a felony will “mess me up for the rest of my life.”

We have examined the entire record and are satisfied that appointed counsel fully complied with her responsibilities in assessing whether any colorable appellate issues exist. We conclude there are no arguable appellate issues. (*People v. Kelly* (2006) 40 Cal.4th 106; *Wende, supra*, 25 Cal.3d 436.)

DISPOSITION

The judgment of conviction is affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

ROGAN, J.*

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