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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.

CONCEPTION SORIA,

Defendant and Appellant.

B239316

(Los Angeles County
Super. Ct. No. LA068762)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Michael V. Jesic, Judge. Affirmed.

Paul R. Kraus, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

An amended information, filed October 18, 2011, charged Conception Soria with four counts: (1) first degree burglary (Pen. Code, § 459)¹; (2) attempted first degree burglary (§§ 664, 459); (3) evading a police officer with willful or wanton disregard for the safety of persons or property (Veh. Code, § 2800.2, subd. (a)); and (4) unlawful driving of a vehicle not his own (Veh. Code, § 10851, subd. (a)).

According to the evidence at trial, Soria drove his uncle, who is younger than Soria, in a maroon Honda to the Kessman residence in the Hollywood Hills. Soria's uncle went to the front door, while Soria waited in the car, and "asked if there was a Marissa home." Ms. Kessman responded that no one by that name lived at the house. The uncle returned to the car, and Soria drove to the front of the Benson home. Ms. Kessman saw the uncle leaning against the fence of the Benson residence, called the police and reported the license plate number of the car. The uncle came out of the Benson residence with a television, and Soria helped him put it in the car. The uncle also put a helmet and gloves in the car and gave Soria some bottles. When Mr. Benson returned home that day, he noticed a computer, a motorcycle helmet, a pair of gloves, a clock radio, a television and several bottles of liquor missing. A screen was off one of the windows.

A police helicopter and officers in a patrol car responded to Ms. Kessman's call. They tracked a maroon Honda. The officer driving the patrol car followed the Honda with lights and sirens. Soria, who was driving, made numerous lane changes and drove at a speed of more than 100 miles an hour on the highway. He then exited the highway and drove at a fast rate of speed in a residential neighborhood, causing a pedestrian crossing the street to run back to the curb. Soria eventually crashed into a parked car. His uncle ran from the Honda. Soria attempted to drive away, but the patrol car blocked the Honda. Soria was taken into custody. Police found a big-screen television, a motorcycle helmet, gloves, liquor and a clock radio inside the Honda. A check of the vehicle identification number revealed that the Honda had been reported stolen. Nancy Crambert testified that

¹ Statutory references are to the Penal Code unless otherwise noted.

she had given her maroon Honda to a mechanic for repair, the car had not been returned to her and she had filed a claim with her insurance company for the missing vehicle.

Soria testified in his defense that, although he had driven his uncle to the Hollywood Hills, he thought his uncle was going to see a friend. After his uncle came back from a house, the uncle asked for the key to the trunk of the car. Soria gave it to him and helped him put a television in the car. Soria's uncle put some items in the trunk and gave Soria a few bottles, which Soria stored under the passenger seat. Soria then drove away from the area and heard sirens and a helicopter. He "started freaking out" because he did not have a driver's license and his "nerves told [him] to run" so he took off. He regretted making that decision. At the police station, he told officers that he had taken the items because he did not want his uncle to get in trouble. He laughed during his interview with the police because he was taking the blame and "was thinking really really hard what to say. And it was really funny the way [he] was lying to them . . . [b]ecause they were asking [him] a lot of questions that [he] didn't know. And [he] was just making it up to them. And [he] was just saying, 'yeah, yeah,' to everything they told [him]." Soria testified that he had paid someone, whose name he did not know, \$1,000 to purchase the maroon Honda, and still owed that person \$4,000 for the car. He expected to receive the "pink slip" to the car when he paid the \$4,000 balance.

The jury convicted Soria of all four counts. The trial court sentenced Soria to a state prison term of six years, consisting of the midterm of four years for the first degree burglary, plus consecutive, eight-month terms for each of the other three counts. Soria filed a notice of appeal.

We appointed counsel to represent Soria in the matter. After examining the record, counsel filed a *Wende* brief raising no issues on appeal and requesting that we independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) On October 26, 2012, we directed appointed counsel to immediately send the record on this appeal and a copy of the opening brief to Soria and notified Soria that he had 30 days to submit by letter or brief any ground of appeal, contention or argument he wished us to consider. We did not receive a response.

We have reviewed the entire record on appeal. We note that before trial Soria made a motion pursuant to section 1538.5 to suppress the items belonging to Mr. Benson that police found in the Honda. Soria maintained the search of the car was unlawful because the police did not have a warrant. The trial court denied that motion, stating the search was “incident to [Soria’s] arrest. But I find this more that the officers had probable cause to search that vehicle . . . under all the circumstances: that there was a call of prowlers in a specific car; that that car went on a high speed chase with the officers; that . . . when the car finally crashed and the occupants tried to flee they were stopped; and the officer ran the [vehicle identification] number, saw that the car was stolen; look[ed] in the back seat, saw that there was a TV in the backseat, which is very odd for someone to have in their car, or at least [the officer] saw inside plain view he could see the TV inside the car. That was enough probable cause to believe that there was other fruits of a crime inside that vehicle. And so [the officers] were absolutely justified in searching that vehicle at that time.” Based on these findings, the court did not err in denying the motion to suppress. (*People v. Valenzuela* (1999) 74 Cal.App.4th 1202, 1206-1207 [“In reviewing the denial of [a motion to suppress evidence], we must view the record in the light most favorable to respondent [citation], uphold all express and implied factual findings of the trial court that are supported by substantial evidence, then independently apply the proper federal constitutional standards to those facts [citations]”].)

We also note that before trial Soria moved to exclude portions of the statement he made to police after his arrest, arguing that, although the police had advised him of his rights under *Miranda v. Arizona* (1966) 384 U.S. 436, during the postadvisement questioning he invoked the right to counsel and thus should not have been questioned further. Toward the end of the questioning, after Soria already had acknowledged the attempt to enter the Kessman residence and entry into the Benson residence, the police asked him about a sliding glass window at the Benson residence. Soria responded, “I’m saying like, like I don’t, I don’t, I don’t want to say anything about it, like I’m already fucked. Honestly, like I, like honestly like I don’t feel (unintelligible) about saying

anything else.” He then proceeded to answer questions as to why he did not stop when the police were pursuing him. We agree with the trial court that Soria’s response toward the end of the questioning did not unambiguously invoke his right to counsel and thus that no grounds existed to exclude portions of his statement to police. (See *Davis v. United States* (1994) 512 U.S. 452, 459.)

Apart from these pretrial motions, the evidence presented by the People at trial is sufficient to support Soria’s convictions. (See *People v. Johnson* (1980) 26 Cal.3d 557, 578.) Based on our analysis of the record, we are satisfied that Soria’s appointed counsel on appeal has fully complied with his responsibilities and that no arguable appellate issue exists. (*People v. Wende, supra*, 25 Cal.3d at p. 441; *People v. Kelly* (2006) 40 Cal.4th 106, 110.)

DISPOSITION

The judgment is affirmed.

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ROTHSCHILD, J.

We concur:

MALLANO, P. J.

JOHNSON, J.