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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.

ANTHONY GILBERT SOUZA,

Defendant and Appellant.

B294775

(Los Angeles County
Super. Ct. No. KA118871)

APPEAL from a judgment of the Superior Court of Los Angeles County, Christian R. Gullon, Judge. Affirmed.

Richard B. Lennon, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Anthony Gilbert Souza appeals from a judgment entered after a jury convicted him of one count of second degree robbery of a supermarket employee with a special finding he personally used a knife to commit the offense. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A. The Information

The People charged Souza with one count of second degree robbery (Pen. Code, § 211) and specially alleged he used a deadly or dangerous weapon, a knife, within the meaning of Penal Code section 12022, subdivision (b)(1). The People also specially alleged Souza had a prior Massachusetts conviction for “unarmed robbery” that was a serious felony under Penal Code section 667, subdivision (a)(1) and a serious or violent felony under the three strikes law (Pen. Code, § 667, subd. (a)(1)). Souza pleaded not guilty and denied the special allegations.

B. The Trial

According to the evidence presented at trial, in July 2018 Alejandro Lopez worked as a service manager at a Stater Brothers supermarket in Pomona. His job responsibilities included maintaining store security and theft prevention. Bulletins had been posted in the employee breakroom directing them to notify Lopez if Souza entered the supermarket.

On the morning of July 27, 2018, Lopez and other employees were alerted that a shoplifting had just occurred inside the supermarket. Lopez and another employee ran outside and confronted Souza, who was holding a bag containing two liquor bottles, which he had taken from the supermarket without

paying for them.¹ Lopez asked Souza to return the bottles. Rather than comply, Souza displayed a knife and threatened to cut Lopez. At that point, Lopez and his fellow employee backed away from Souza and called the police. Souza left the area before the officers arrived.

On August 17, 2018, Souza admitted to a Stater Brothers investigator that he had previously stolen liquor bottles from the supermarket and produced a knife to prevent employees from apprehending him. The investigator contacted the police.

C. The Verdict and Sentence

The jury found Souza guilty as charged and found true the knife-use enhancement. In a bifurcated proceeding, the trial court found true the prior felony conviction allegations.

The court sentenced Souza to an aggregate prison term of 10 years, consisting of the five-year upper term for robbery doubled under the three strikes law, and dismissed the remaining special allegations.

Souza filed a timely notice of appeal.

DISCUSSION

We appointed counsel to represent Souza on appeal. After an examination of the record, counsel filed an opening brief in which no issues were raised. On June 12, 2019, we advised Souza he had 30 days within which to submit any contentions or issues he wished us to consider. We have received no response.

¹ Video recordings from the supermarket's security cameras showed Souza's conduct inside and outside the supermarket on July 27, 2018 and were played for the jury.

We have examined the entire record and are satisfied Souza's appellate attorney has fully complied with the responsibilities of counsel and no arguable issue exists. (*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.

ZELON, Acting P. J.

We concur:

SEGAL, J.

FEUER, J.