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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

JHELMAX FARIA,

Defendant and Appellant.

B239202

(Los Angeles County Super. Ct.  
No. BA366634)

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

Linn Davis, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Following a court trial,<sup>1</sup> defendant and appellant Jhelmax Faria was found guilty in counts 1, 2, and 4 of robbery (Pen. Code, § 211),<sup>2</sup> second degree burglary in count 3 (§ 459), and assault with a firearm in count 5 (§ 245, subd. (a)(2)). The trial court found defendant personally used a firearm (§ 12022.53, subd. (b)) as to all counts other than count 3.

Defendant was sentenced to state prison for a total term of 17 years 4 months. The trial court imposed the midterm of three years for the robbery in count 1, enhanced by 10 years for the firearm use allegation. A consecutive sentence of one year was imposed for the robbery in count 4, enhanced by three years four months for the firearm use. Concurrent sentences were imposed in counts 2 and 3, and the sentence in count 5 was stayed under section 654.

Defendant filed a timely notice of appeal from the judgment. This court appointed counsel to represent defendant on appeal. On June 5, 2012, appointed appellate counsel filed a brief raising no issues but requesting this court to independently review the record for arguable contentions under *People v. Wende* (1979) 25 Cal.3d 436. Defendant was advised by letter on June 5, 2012, of his right to file a supplemental brief within 30 days. The 30-day period has lapsed, and no brief has been filed by defendant.

## FACTS

Defendant was convicted of five offenses occurring on three occasions—two at the Wilshire Plaza Hotel in Los Angeles and one at the Golden Key Hotel in Glendale.

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<sup>1</sup> In pretrial proceedings, defendant's motion to suppress evidence under Penal Code section 1538.5, filed in propria persona, was denied. A motion to dismiss under Penal Code section 995 was denied except as to one duplicate count list in the information. Defendant relinquished his propria persona status and counsel was appointed. Defendant waived his right to a jury trial on the charged offenses.

<sup>2</sup> All statutory references are to the Penal Code.

Defendant had been employed at both hotels prior to the offenses committed at each location.

Four of the charged crimes were committed at the Wilshire Plaza, beginning with a commercial burglary on June 14, 2004. Jennifer Alvidera, who had worked with defendant at that location, was working as the hotel's night auditor. A masked burglar entered through a door leading from the garage, which was typically used by employees for entrance. The burglar went immediately to drawers at the front desk where money had been kept during defendant's period of employment. Alvidera had a hint that defendant was the perpetrator as the crime occurred. A video of the incident showed the burglar's entry through the garage. Alvidera identified defendant's unique means of entry from video footage. Another employee viewed the video of the incident and identified defendant based on body movement, the shape of his body, and the shoes he wore. Defendant's cell phone records revealed that he made calls from Glendale prior to the burglary, but he made calls shortly after the offense from a location near the Wilshire Plaza.

A second set of offenses took place at the Wilshire Plaza on September 8, 2009. Richard Gallon was accosted by a masked robber, who was armed with a semiautomatic 9-millimeter handgun. After a struggle over the gun, Gallon knelt on the floor and directed Alvidera to hand the assailant money from the cash drawer. Gallon, who had worked with defendant for four years, was certain defendant was the robber based on his voice, body size, and movements. Alvidera believed defendant committed the September 8 and June 14 offenses.

Defendant had been employed at the Golden Key Hotel in Glendale, but was terminated after failing to appear at work on September 7 and 8, 2009. On November 4, 2009, David Aoki was at work at 5:00 a.m. at the Golden Key when he was accosted by a masked man who pointed what appeared to be a key at him and directed him to the ground, asking for a key to the cash drawer. Aoki felt a round object placed against his head. Aoki recognized defendant's voice "and I pretty much knew that it was

[defendant].” Aoki watched a video of the incident and saw that defendant was in possession of a handgun. Defendant lives less than one mile from the hotel.

## **DISCUSSION**

We have completed our independent review of the record. There are no arguable appellate contentions. The trial court committed no errors in ruling on pretrial motions, nor were there evidentiary errors at trial. The sentence imposed was within the range allowed by law. The judgment is affirmed. (*Smith v. California* (2000) 528 U.S. 259.)

KRIEGLER, J.

We concur:

TURNER, P. J.

MOSK, J.