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

THE PEOPLE,

Plaintiff and Respondent,

v.

LAMARR ANTOINE BROWN,

Defendant and Appellant.

B270294

(Los Angeles County
Super. Ct. No. VA139663)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Michael A. Cowell, Judge. Affirmed.

Alan E. Spears, under appointment by the Court of Appeal,
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Following a jury trial, defendant and appellant Lamarr Antoine Brown, was found guilty of second degree robbery and admitted two prior prison term enhancement allegations. He was sentenced to a state prison term of four years. We affirm.

FACTUAL SUMMARY

Viewed in accordance with the usual rules of appellate review (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206), the evidence established the following.

1. *Trial evidence.*

Kent Villa, a student at Los Angeles City College, wanted to upgrade his cell phone from an iPhone 6 to an iPhone 6 Plus. Using a cell phone application called OfferUp, Villa contacted someone who wanted to purchase Villa's iPhone 6. Villa accompanied this person to a bank ATM and watched him withdraw \$500, which the person handed to Villa in exchange for Villa's phone. After receiving this money, Villa shopped on OfferUp for an iPhone 6 Plus and made contact with defendant Brown. They agreed to meet that same day in Bell Gardens.

When Villa arrived in Bell Gardens, he parked and saw Brown get out of his car and open the trunk. When Villa approached, Brown told him to get into the back seat. Villa did so and Brown sat in the driver's seat. Brown handed Villa what appeared to be a factory-sealed cell phone box. Villa began inspecting the iPhone 6 Plus. He checked the phone identification number on a cell phone application called Swappa, which revealed that Brown's phone was being financed and was ineligible to be sold. When Villa informed Brown of this, Brown got "offended" and asked Villa "if [he] even [had] the money in the first place." In response, Villa took out the \$500 that had come

from the ATM and handed it to Brown, who claimed that the money was “fake.” Villa testified he had examined the money beforehand and that it appeared to be normal currency.

Brown insisted “the phone was legit,” accused Villa of trying to scam him, and “threatened to pull out a burner” if Villa did not get out of the car. Villa testified “burner” is “a slang term for a gun.” Villa and Brown both got out of the car. Brown then “leaned over as if he was going to reach for a weapon,” and Villa got scared. However, Villa acknowledged that he never saw a gun. Saying that he was a member of the Crips gang, Brown threatened to beat Villa up and asked him for more money, but Villa did not have any more money. Brown got back into his car and Villa “tr[ie]d to go back and ask him for the money back,” but Brown “steps right back out and keeps threatening to beat me up,” which frightened Villa. Brown said Villa could not have the money and he “kept mentioning the fact that he was a Crip.” Villa was scared. Brown once again got back into his car. As he started to drive off, Villa snapped a picture of Brown’s license plate. Seeing this, Brown “tried to reverse the car on [Villa],” but Villa was able to get out of the way. Brown drove off and Villa called 9-1-1. The iPhone 6 Plus was still in Brown’s car.

Brown testified in his own defense. He confirmed that he had made an appointment to meet Villa to sell him an iPhone 6 Plus. When Villa was examining the phone in the back seat of Brown’s car, Villa never indicated he thought it was ineligible for resale. When Villa handed him the \$500, Brown accused Villa of having given him counterfeit money and told him “get out of my car before I call the police.” Brown could tell from the texture of the money Villa handed him that it “wasn’t right,” and after looking through the bills he noticed they did not have the “strips”

that real money had. Brown denied ever threatening to beat Villa up or shoot him. When Brown tried to return the money in exchange for the cell phone, Villa backed away from him and Brown decided not to pursue the matter.

Brown testified he had acquired the iPhone 6 Plus from a friend who worked as an assistant manager for T-Mobile. She could obtain iPhones cheaply and Brown had bought a number of them from her; he believed it was legal to resell these phones.

2. Trial outcome.

The jury convicted Brown of second degree robbery and Brown admitted two prior prison term enhancement allegations. (Pen. Code, §§ 211/212.5, subd. (c), 667.5.)¹ The trial court sentenced Brown to a total term of four years in prison.

We appointed counsel to represent Brown on appeal. After reviewing the record, counsel filed an opening brief requesting this court to independently review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441. Brown has filed a supplemental opening brief.

DISCUSSION

We have examined the entire record and are satisfied that appellate counsel has fully complied with his responsibilities and that no arguable appellate issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 278 [120 S.Ct. 746]; *People v. Wende, supra*, 25 Cal.3d at p. 443.)

In his supplemental brief, Brown makes several claims of trial error which are without merit.

¹ All further statutory references are to the Penal Code unless otherwise specified.

Brown claims his offense constitutes a misdemeanor under Proposition 47 because “it was only \$500.00 involved, and nothing was taken from the victim . . . [who] couldn’t even prove that the money was real.” However, Villa testified the \$500 had just come out of a bank ATM machine, and – although Proposition 47 has reduced some theft-related crimes to misdemeanors where the value of the property taken does not exceed \$950 (e.g., shoplifting [§ 459.5]; petty theft [§ 490.2] and receiving stolen property [§ 496]) – Proposition 47 has left the felony offense of robbery unchanged (§ 211).

Brown claims “there was never an intent or a plot to rob” Villa, and that he “went with the intent to sell a phone to the victim. I feel as if this was more so a buyer/seller dispute.” However, the evidence at trial was more than ample to prove that Brown, after gaining possession of Villa’s money, maintained control of it by threatening to beat or shoot the victim. (See *People v. Cooper* (1991) 53 Cal.3d 1158, 1165, fn. 8 [“mere theft becomes robbery if the perpetrator, having gained possession of the property without use of force or fear, resorts to force or fear while carrying away the loot”].) There was sufficient evidence of Brown’s intent to commit robbery.

DISPOSITION

The judgment is affirmed.

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EDMON, P. J.

We concur:

LAVIN, J.

STRATTON, J.*

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