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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.

MICHAEL A. GRAVES,

Defendant and Appellant.

B293405

(Los Angeles County
Super. Ct. No. BA468290)

APPEAL from order of the Superior Court of Los Angeles County. Henry J. Hall, Judge. Dismissed.

Peter J. Boldin, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

The Los Angeles County District Attorney charged defendant and appellant Michael A. Graves with one count

of residential burglary (Pen. Code, § 459¹ [count 1]), and two counts of attempted residential burglary (§§ 459/664 [counts 2 and 3]). As to counts 2 and 3, it was alleged that a person other than an accomplice was present during the commission of the offenses. (§ 667.5, subd. (c).) It was also alleged that Graves had served two prior prison terms within the meaning of section 667.5, subdivision (b), suffered a prior serious felony conviction within the meaning of section 667, subdivision (a)(1), and suffered a prior serious and/or violent felony conviction within the meaning of the three strikes law (§§ 667, subds. (b)–(i), 1170.12).

The charges were predicated on Graves’s entry into an apartment complex on false pretenses, and subsequent entry into three separate apartments without permission. Upon entry into the first apartment, Graves immediately encountered the occupant and excused himself, stating that he had gone into the wrong apartment (count 2). He entered a second apartment where no one was at home and took a laptop computer and cord (count 1). Graves was inside a third apartment when two of the occupants returned (count 3). He apologized, stating that he was “there for a function,” and exited the apartment carrying a laptop computer.² The

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

² The computer belonged to the occupant of the second apartment (count 1). Graves did not take anything from either the first or third apartment (counts 2 and 3).

occupant of the third apartment and the building manager pursued Graves until he was apprehended by police. Graves dropped the laptop during the chase, and it was returned to the owner undamaged.

After the prosecution rested at trial, the trial court granted the People's motion to amend the information to allege completed rather than attempted burglaries in counts 2 and 3. The trial court also granted Graves's motion pursuant to section 1118.1 to dismiss the 667.5, subdivision (c) enhancement in count 3.

The jury found Graves guilty of three counts of residential burglary. (§ 459 [counts 1–3].) It also found true the allegation that a person other than an accomplice was present during the commission of the burglary in count 2. (§ 667.5, subd. (c).)

In a bifurcated proceeding, the trial court found true the allegations that Graves had served two prior prison terms within the meaning of section 667.5, subdivision (b), suffered a prior serious felony conviction within the meaning of section 667, subdivision (a)(1), and suffered a prior serious and/or violent felony conviction within the meaning of the three strikes law (§§ 667, subds. (b)–(i), 1170.12).³

The trial court sentenced Graves to an aggregate term of 17 years 4 months. It imposed the upper term of 6 years in count 1, doubled to 12 years pursuant to the three strikes law. The court imposed consecutive terms of two years eight

³ The trial court's true findings were based on Graves's admissions and its independent findings.

months each (one-third of the middle term of four years, doubled pursuant to the three strikes law) in counts 2 and 3. It granted the prosecution's motion to strike the five-year prior serious felony enhancement under section 667, subdivision (a).

Graves filed a notice of appeal. We appointed counsel on appeal. On July 22, 2019, counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, raising no issues but asking this court to independently review the record for error.

We advised Graves on July 23, 2019, of his right to file a brief or letter containing any issues he wishes this court to consider. No response has been received to date.

We have examined the entire record and find no arguable issues on appeal. (*Smith v. Robbins* (2000) 528 U.S. 259, 278–284; *People v. Wende, supra*, 25 Cal.3d at p. 441.)

The judgment is affirmed.

MOOR, J.

We concur:

RUBIN, P. J.

BAKER, J.