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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

SHAUNCY LAMONT
BOWEN,

Defendant and Appellant.

2d Crim. No. B298201
(Super. Ct. No. SM107169)
(Santa Barbara County)

Shauncy Lamont Bowen appeals from the trial court's order denying his petition for resentencing under Penal Code section 1170.95.¹ In 1999, appellant was an armed participant in the robbery of the Vandenberg Federal Credit Union. During the robbery, appellant personally used a firearm to rob tellers of cash. One of his accomplices fatally shot a woman in the back as she attempted to run from the robbery. Appellant and his accomplices fled the bank. As he ran past the

¹ All further statutory references are to the Penal Code.

victim, appellant stopped to steal her purse. He was convicted, by jury, of murder (§ 187), three counts of robbery (§ 211), one count of burglary (§ 459) and one count of assault with a firearm. (§ 245, subd. (a)(2).) Appellant was sentenced to life without the possibility of parole for the murder conviction. We affirmed appellant's convictions in an unpublished opinion. (*People v. Bowen* (Jan. 27, 2000, B132477) [nonpub. opn.].)

Appellant petitioned for resentencing under recently enacted amendments to the felony murder rule. (§§ 188, 189, subd. (e), 1170.95.) After appointing counsel and independently reviewing the record of his conviction, the trial court denied the petition. It concluded appellant was not eligible for resentencing because he was a major participant in the robbery and had acted with reckless indifference to human life. After appellant filed his notice of appeal, he filed in the trial court a "Petition for Reconsideration" in which he urged the trial court to reconsider both of those findings. We have denied appellant's request to stay this appeal pending resolution of the petition for reconsideration.

Section 1170.95 provides that a person convicted of murder may be eligible for resentencing if that person "could not be convicted of first or second degree murder because of changes to Section 188 or 189 made effective January 1, 2019."

(§ 1170.95, subd. (a)(3).) The recent changes to section 189 provide that a person who commits a robbery or burglary in which a death occurs may be convicted of murder if that person "was a major participant in the underlying felony and acted with reckless indifference to human life" (§ 189, subd. (e)(3).)

The jury at appellant's trial found true the special circumstance that "[t]he murder was committed while [appellant] was engaged

in . . . the commission of . . . [the crime of] [r]obbery . . . [or the crime of] [b]urglary . . . with reckless indifference to human life.” (§ 190.2, subd. (a)(17)(A), (G) & (d).) Because the jury expressly found that appellant acted with reckless indifference to human life, he is not eligible for resentencing.

We appointed counsel to represent appellant in this appeal. After counsel’s examination of the record, he filed an opening brief in which no issues were raised. On October 3, 2019, we advised appellant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. No response has been received.

We have reviewed the entire record, including appellant’s “Petition for Reconsideration,” and are satisfied that appellant’s attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 443; *People v. Kelly* (2006) 40 Cal.4th 106, 126.)

The judgment (order denying petition for resentencing) is affirmed.

NOT TO BE PUBLISHED.

YEGAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

John McGregor, Judge

Superior Court County of Santa Barbara

Law Offices of Allen G. Weinberg and Allen G.
Weinberg, under appointment by the Court of Appeal for
Defendant and Appellant.

No appearance by Respondent.