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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.

ERNEST WESTERN
ANDERSON,

Defendant and Appellant.

2d Crim. No. B287450
(Super. Ct. No. 2015014417)
(Ventura County)

Ernest Western Anderson appeals from the judgment entered after pleading guilty to first degree residential robbery (Pen. Code, § 211)¹ and personal use of a firearm (§ 12022.5, subd. (a)(1)). Pursuant to the negotiated plea, appellant was sentenced to nine years state prison and ordered to pay various fines and fees, plus victim restitution in an amount to be determined at a later date.

We appointed counsel to represent appellant in this appeal. After counsel's examination of the record, counsel filed an opening brief in which no issues were raised. On April 10,

¹ All statutory references are to the Penal Code.

2018, we advised appellant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. On May 14, 2018, appellant filed a supplemental brief stating, among other things, that his trial attorney failed to advise him how much victim restitution he would have to pay.

The record reflects that appellant was charged with first degree residential robbery with personal use of a firearm and unlawful possession of a firearm by an ex-felon after he forcibly entered the victim's hotel room, confronted the victim about money she owed (\$10), and said "I'm taxing you 30, 40, 50." Appellant brandished and cocked a handgun, and took a bike and watch belonging to the victim's boyfriend. After appellant left the hotel room, the boyfriend slammed the door. Angry, appellant kicked the door and shot through the bedroom window. The police later found a Beretta .40 caliber handgun outside the rear window of appellant's hotel room. A hotel video surveillance showed appellant brandishing the handgun, take the bike out of the victim's bedroom, and return to his room. The probation report stated that the victim and her boyfriend had moved with no forwarding address.

At the preliminary hearing, appellant made a *Marsden* motion (*People v. Marsden* (1970) 2 Cal.3d 118) to replace his court-appointed attorney, which was denied. After appellant was bound over to superior court, appellant's trial attorney twice declared a doubt as to appellant's mental competency to stand trial. (§ 1368.) In both instances, criminal proceedings were suspended, psychologists examined appellant, and the trial court found appellant competent to stand trial.

Appellant, in his supplemental letter brief, states that his trial attorney told him that restitution would not exceed

\$320 and that counsel told him to be quiet at the sentencing hearing. As a term of the plea agreement, appellant agreed to pay victim restitution, restitution fines, a court security fee, a court facilities fee, and penalty assessments. The record reflects that the trial court ordered appellant to pay victim restitution in an amount to be determined at a later date. Appellant asked, “What kind of restitution are we talking about?” The trial court explained: “[N]obody has made a dollar claim, sir. If they make a claim, you can have a hearing; okay? I’m not ordering you to pay any money to Mr. Tye [victim’s boyfriend] or the other victim at this point. That could change later if I’m provided evidence and I’m satisfied that I should do so; okay?” Appellant did not object or say that he was not properly advised by trial counsel.

The record shows that the plea was knowingly and voluntarily made, that there was a stipulated factual basis for the plea, and that appellant was provided effective representation. (*Strickland v. Washington* (1984) 466 U.S. 668, 687; *People v. Bolin* (1998) 18 Cal.4th 297, 333.)

We have reviewed the entire record 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 is affirmed.

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YEGAN, Acting P. J.

We concur:

PERREN, J.

TANGEMAN, J.

Bruce A. Young, Judge

Superior Court County of Ventura

California Appellate Project and Jonathan B. Steiner,
Executive Director, Richard B. Lennon, Staff Attorney, under
appointment by the Court of Appeal for Defendant and Appellant.

No appearance for Respondent.