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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

A135346

v.

**(Solano County
Super. Ct. Nos.
VCR206765, VCR213041)**

JOHN EDWARD BRAZIER,

Defendant and Appellant.

_____ /
The trial court revoked appellant John Edward Brazier’s probation and a jury found him guilty of second degree robbery (Pen. Code, § 211).¹ The court sentenced appellant to state prison. He appeals. He asks this court to conduct an independent review pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

FACTUAL AND PROCEDURAL BACKGROUND

In July 2010, in case No. VCR206765, appellant pleaded no contest to assault with a firearm (§ 245, subd. (a)(2)) and the court placed him on probation. In June 2011, appellant was arrested and the People moved to revoke his probation in case No. VCR206765. The People also charged appellant with second degree robbery (§ 211) in case No. VCR213041. The operative information also alleged appellant’s prior

¹ Unless otherwise noted, all further statutory references are to the Penal Code.

conviction in case No. VCR206765 was a strike and a sentencing enhancement (§§ 667, subds (b)-(i), 1170.12, subds. (a)-(d)).

Trial Testimony

The court heard the People's motion to revoke probation in case No. VCR206765 in conjunction with the trial in case No. VCR213041.

At midnight on March 31, 2011, A.J. was delivering a Domino's pizza to a residence in Vallejo when two men wearing hooded sweatshirts came up to him and said, "Right here. Right here." One man was black; the other man — Brandon Hale — had dark brown skin and appeared to be of mixed descent. As the men approached, A.J. sensed they were trying to rob him, so he threw the pizza on the ground and began to run. The men caught up with him and the black man hit him several times. Hale pointed a gun at A.J. while his companion checked A.J.'s pockets. The men took A.J.'s cell phone and between \$20 and \$60. They also took a pizza out of his car. An eyewitness described two men chasing A.J. but could not identify the men; she described Hale's companion as skinny and African American, with short, twisted dreadlocks.

Vallejo Police Officer Stephen Fowler and his partner went to the Domino's location where A.J. worked and determined Hale placed the pizza order. Then the officers went to the residence where the pizza was to be delivered and found a half-full bottle of gin containing Hale and appellant's fingerprints in the area. Officer Fowler prepared a photo lineup for A.J., who identified Hale but could not identify Hale's companion. Officer Fowler arrested Hale, who confessed to the robbery. At trial, Hale testified appellant helped him rob A.J.² He said appellant was drinking from a bottle of gin on the night of the robbery. Hale admitted pointing a gun at A.J., but claimed it was fake.

² During an interview with Officer Fowler, Hale initially denied knowing the other person involved in the robbery. Later in the interview, however, Hale said the person was "John Fraser" who "he'd known . . . for some time" but "was unsure of the spelling of his last name."

At trial, appellant denied being present at the robbery and denied spending time alone with Hale. He acknowledged having “dreads with twisties” in his hair in April 2011.

Verdict and Sentencing

The court determined appellant violated probation in case No. VCR206765 and the jury found him guilty of robbery (§ 211) in case No. VCR213041. Appellant waived his right to a jury trial on the prior conviction allegations and the court found them to be true.

At sentencing, the court denied appellant’s motion to dismiss the prior conviction pursuant to section 1385 and *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497. The court revoked appellant’s probation and imposed a 14-year prison sentence. The court awarded appellant custody and conduct credits. The court imposed fines pursuant to sections 1202.4 and 1202.45 but later modified the abstract of judgment to eliminate the fines.

DISCUSSION

We appointed counsel to represent appellant on appeal. Counsel presents no argument for reversal, but asks this court to conduct an independent review of the record in accordance with *Wende, supra*, 25 Cal.3d at pages 441-442. Counsel informed appellant that he had the right to file a supplemental brief on his own behalf, but appellant declined to do so.

We have conducted our independent review and find no arguable issues.

DISPOSITION

The judgment is affirmed.

Jones, P.J.

We concur:

Needham, J.

Bruiniers, J.