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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

ANTHONY TERRY COPELAND,

Defendant and Appellant.

A142776

(Alameda County
Super. Ct. No. 172407)

Anthony Terry Copeland appeals from a judgment entered after pleading no contest to second degree robbery (Pen. Code,¹ §§ 211, 212.5) and admitting to a prior conviction of forcible rape as the basis for a five-year sentence enhancement (§ 667, subd. (a)(1)). He received a 10-year prison sentence. His counsel on appeal has filed an opening brief asking this court to conduct an independent review of the record under *People v. Wende* (1979) 25 Cal.3d 436. Counsel has also informed appellant of his right to file a supplemental brief on his own behalf. Appellant declined to exercise that right. We have reviewed the record, find no issues that require briefing, and therefore affirm.

BACKGROUND

On May 18, 2011, appellant allegedly committed two robberies at liquor stores with his brother. The first robbery occurred at around 9:00 p.m. Two perpetrators entered the store, and a bullet was discharged. A store clerk, Antar Aliwog, who

¹ All unspecified statutory references are to the Penal Code.

admitted to not seeing who fired the gun, reported that a perpetrator with a gun shot at another store clerk. After the shot was fired, one of the perpetrators told Aliwog to hand over money from the register. After taking the money, both perpetrators left the store.

The second robbery occurred later that night at around 11:00 p.m. A perpetrator with a gun, accompanied by a perpetrator without a gun, grabbed a store clerk by the back of his neck and guided him to the counter where another clerk was working. The unarmed perpetrator allegedly demanded money from the clerk at the counter. The armed perpetrator then hit his captive's head with the gun, causing him to fall to his knees. Both perpetrators then left the store.

The video cameras in each liquor store recorded the individual robberies. The investigating police officer identified appellant in the recordings of the robberies from both stores. In each robbery, only one of the two perpetrators appeared to be wielding a gun.

On September 18, 2013, the District Attorney for Alameda County filed an information charging appellant with two separate second degree robberies (§§ 211, 212.5) and two separate assaults with a semiautomatic firearm. (§ 245, subd. (b).) The information further alleged that appellant was subject to a three strikes sentence based on prior convictions. (§§ 667, subds. (c), (e)(2), 1170.12, subds. (a), (c)(2).) Two days later, appellant was arraigned. He entered not guilty pleas and denied all allegations.

On April 2, 2014, pursuant to a plea bargain, appellant withdrew his not guilty pleas, entered a plea of no contest to one of the second degree robbery charges, and admitted one previous conviction as a five-year prior under section 667, subdivision (a)(1). Appellant entered his change of plea after the prosecutor stated on the record all the terms and conditions of the plea bargain, which included a 10-year prison sentence. The court asked appellant if he understood that his sentence would be comprised of the upper term of five years in prison for the second degree robbery charge and five years for the prior conviction. Appellant indicated that he understood, and that he was prepared to accept all the terms and conditions of the plea deal recited by the prosecutor. The court

informed appellant of all of his constitutional rights, and appellant waived them before entering his plea. The People dismissed the balance of the information.

On July 17, 2014, appellant filed a motion to withdraw his plea of no contest and a motion for substitution of counsel based on ineffective assistance of counsel. On August 7, 2014, a *Marsden* hearing was conducted. (See *People v. Marsden* (1970) 2 Cal.3d 118.) Both motions were denied that day.

Appellant was sentenced to 10 years imprisonment, consisting of the upper term for the second degree robbery count plus five years consecutive for the section 667, subdivision (a)(1) prior. The court levied a \$3,000 restitution fine, a \$3,000 parole revocation fine, a \$250 probation investigation fee, a \$40 court operations assessment fee, and a \$30 criminal conviction fee. Also, the court noted that appellant had served 411 days against the ten-year sentence.

Appellant filed a timely notice of appeal. Appellant also filed a written statement requesting the issuance of a certificate of probable cause to appeal under section 1237.5, but the trial court never acted on that request.

DISCUSSION

Having reviewed the record, we conclude there are no meritorious issues to be argued. Before accepting appellant's plea of no contest, the court informed appellant of the constitutional rights that he was waiving, and the prosecution stated for appellant the terms and conditions of his plea. The trial court did not issue a certificate of probable cause to appeal, and the record shows no basis to conclude that the court improperly denied the *Marsden* motion.

DISPOSITION

The judgment is affirmed.

Streeter, J.

We concur:

Ruvolo, P.J.

Reardon, J.