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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTOPHER GLENN PATMORE,

Defendant and Appellant.

B232585

(Los Angeles County
Super. Ct. No. YA078419)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Sandra Thompson, Judge. Affirmed.

Karli Sager, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

On June 26, 2010, Nuria Gago Lopez, Sergio Velasco, and Jeff Seifert were sitting at the counter of a bar in Redondo Beach. Lopez and Velasco decided to go outside to smoke cigarettes, and Lopez asked Seifert to watch her purse, which was hanging on the back of her chair. As he watched the purse, Seifert noticed appellant enter the bar with two male companions. Appellant's head was shaved, and he was wearing a plaid jacket. Appellant and his companions approached the bar and stood right next to Seifert. Appellant made eye contact with Seifert and nodded at him. The two men shook hands. During this time, Seifert tried to keep an eye on Lopez's purse.

When Lopez and Velasco came back several minutes later, Lopez immediately asked Seifert, "Hello, where's my bag?" Seifert looked around the room and noticed that appellant and his companions were walking toward the exit. Seifert ran after the men, and Velasco followed him. When Seifert went outside, he did not see appellant or anyone holding a purse. He ran back inside and looked toward the men's bathroom. He noticed the bathroom door was shutting, and he saw the back of a plaid jacket. Seifert went into the bathroom, and saw appellant and one of his companions. Appellant was holding Lopez's purse in his left hand. When Seifert said, "Hey, you took my . . . friend's wife's purse," appellant motioned as if to give Seifert the purse, but then punched Seifert with his right hand. The other man also started punching Seifert, who fought back.

When Velasco entered the bathroom, he saw appellant and another man hitting Seifert. Velasco grabbed the other individual and held him in a corner. While Velasco was holding the man's hands, he felt a hard blow to his right eye, but he did not see who hit him.

Bar employees broke up the fight, and dragged the four men outside the bathroom. Seifert saw appellant and the other man run out the bar. City of

Redondo Beach Police Officer Vincent Daliva responded to a police dispatch about a robbery at the bar. He detained appellant half a block away from the bar.

Velasco received 15 stitches around his right eye. Seifert suffered cuts to his head. He treated his injuries himself because he did not have medical insurance. Velasco picked up Lopez's purse, which was on the bathroom floor, and returned it to her

As a result of this incident, appellant was charged in an information with the robbery of Seifert (Pen. Code, § 211; count 1),¹ the aggravated battery of Velasco (§ 243, subd. (d); count 2), and the aggravated battery of Seifert (§ 243, subd. (d); count 4). As to counts 1 and 2, it was specially alleged that appellant had inflicted great bodily injury to Seifert and Velasco (§ 12022.7). Appellant pleaded not guilty and denied the special allegations.²

After a seven day trial, the jury was sent to deliberations with verdict forms for each count that did not specify the names of the victims. The jury convicted appellant of counts 1 and 4 and acquitted him of count 2. The jury found the special allegation as to count 1 to be not true.

Before discharging the jury, the trial court asked the jury about its verdicts on counts 2 and 4. The jury foreperson explained the jury thought Seifert was the victim of the battery charged in count 2 because that count followed count 1, charging appellant with robbery, and Seifert was the only person appellant was alleged to have robbed.

¹ All further statutory citations are to the Penal Code.

² The information also charged appellant with misdemeanor petty theft in count 3, which he denied. The verdict form for count 3, however, was identical to the verdict form for count 4. The jury, therefore, did not render a verdict on count 3.

Outside the presence of the jury, the court informed appellant that unless he waived his appellate rights as to the omission of the names of the victims on the verdict forms, the court would instruct the jury to specify the identity of the victims in counts 2 and 4. Appellant did not waive his appellate rights. The court reconvened the jury and instructed the jurors to “insert on the [verdict] form . . . the name of the victim that you deliberated upon for those two counts.” The court did not allow the jurors to change any verdict. After a short deliberation, the jury inserted the name Sergio Velasco for count 4 and Jeff Seifert for count 2. There was no change in the verdict of guilty on count 4 and acquittal on count 2. During polling, all jurors orally acknowledged that this verdict was correct.

On March 7, 2011, the court sentenced appellant to six years in state prison, consisting of the upper term of five years for the robbery count and one-third the midterm, or one year, for the aggravated battery count. After appellant filed a timely notice of appeal, this court appointed counsel to represent him. After examining the record, appointed appellate counsel filed a brief raising no issues, but asking this court to independently review the record on appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441-442. (See *Smith v. Robbins* (2000) 528 U.S. 259, 264.) On January 20, 2012, we advised appellant he had 30 days within which to submit by brief or letter any contentions or argument he wished this court to consider. No reply was received.

It is well-established that a trial court has “the power to direct a jury to correct an informal verdict, although the mistake had not been discovered until after the verdict had been entered upon the minutes, ‘while the jury [is] before it and under its control.’” (*People v. Lee Yune Chong* (1892) 94 Cal. 379, 385, quoting *People v. Jenkins* (1880) 56 Cal. 4, 7; accord, *People v. Thornton* (1984) 155 Cal.App.3d 845, 855.) Moreover, if the verdict form signed by the jury is

different from the verdict as declared and acknowledged by the jury in open court, it is the oral declaration of the jurors that is the “true verdict.” (*People v. Thornton, supra*, 155 Cal.App.3d at p. 858.) Here, the jury had not been discharged and was still under the trial judge’s control when the judge reconvened the jury for further deliberations on counts 2 and 4. All jurors orally confirmed their verdict that appellant was guilty of the robbery of Seifert and the aggravated battery of Velasco. This verdict was consistent with the jury’s prior verdict. The trial court sentenced appellant accordingly. On this record, we find no error.

This court has examined the entire record in accordance with *People v. Wende, supra*, 25 Cal.3d at pages 441-442, and we are satisfied that appellate counsel has fulfilled her responsibilities and that no arguable issue exists on appeal. Accordingly, we affirm the judgment of conviction.

DISPOSITION

The judgment is affirmed.

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MANELLA, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.