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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

ERIC ANTHONY NICHOLS et al.,

Defendants and Appellants.

B235700

(Los Angeles County
Super. Ct. No. KA094081)

THE COURT:*

Eric Anthony Nichols (Nichols) and Jason Allen Morris (Morris) (collectively appellants) appeal from the judgments entered upon their convictions of second degree robbery (Pen. Code, § 211).¹ Nichols also appeals his conviction for being a felon in possession of a firearm (§ 12021, subd. (a)(1)). Nichols was convicted by jury and Morris by plea of guilty and admission of a prior felony strike (§§ 1170.12, subds. (a)-(d), 667, subds. (b)-(i)) and a prior serious felony (§ 667, subd. (a)(1)).

With respect to Nichols, the jury found to be true the allegation that in connection with the robbery, he personally used a firearm (§ 12022.53, subd. (b)). The trial court

* BOREN, P. J., ASHMANN-GERST, J., CHAVEZ, J.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

found that he had suffered a prior prison term within the meaning of section 667.5, subdivision (b). It sentenced him to an aggregate state prison term of 16 years, calculated as the upper term of five years for the robbery conviction, 10 years for the firearm enhancement and one year for the prior prison term enhancement, as well as a concurrent two-year term for his conviction of being a felon in possession of a firearm.

Morris was charged with several enhancements, including that a principal was armed with a firearm within the meaning of section 12022, subdivision (a)(1), and a prior serious felony enhancement within the meaning of section 667, subdivision (a)(1), a prior felony strike within the meaning of sections 1170.12, subdivisions (a) through (d) and 667, subdivisions (b) through (i), and a prior prison term within the meaning of section 667.5, subdivision (b). Morris pled guilty to the robbery charge and to the prior felony strike in return for a nine-year sentence, consisting of the low term of two years for the robbery conviction, doubled as a second strike, plus five years for the prior serious felony, and dismissal of the remaining enhancements. Morris's request for a certificate of probable cause was denied.

Appellants' convictions arose from the following facts:

On April 26, 2011, between 3:30 and 4:00 p.m., Jeramiah R. (Jeramiah), his three brothers and a friend were playing ball at Cameron Park in West Covina. A White male with tattoos, later identified as Morris, approached Jeramiah and tried to sell him marijuana, which offer Jeramiah declined. When Jeramiah's group left the park and began walking home, Morris drove past them twice. He was alone in the car.

As they walked further, Jeramiah heard Morris's car approach from behind. The car stopped, and four people got out: Morris, Nichols, who was holding a handgun that he cocked, and two others. Nichols approached Jeramiah as the rest of Jeramiah's group scattered. Nichols placed the gun to the side of Jeramiah's head and told him to get on the ground, which Jeramiah did. Nichols and one of his other associates searched Jeramiah's pockets and removed \$175 cash, a cell phone and two Bic lighters. While this was occurring, Morris tried chasing Jeramiah's brothers. Nichols and his accomplices returned to the car and drove away.

Jeramiah described Morris's tattoos to the police, which led them to an apartment in West Covina, outside of which was the car Jeramiah said followed his group. When police surrounded the apartment, Nichols jumped out of a window just in front of one of the officers who arrested and searched him. The items taken from Jeramiah were recovered. A search of the apartment uncovered a loaded handgun under a futon, wrapped in a blanket.

Upon their arrest, appellants were placed in adjoining cells, and a recorder was placed so as to record discussions between them. In one recorded conversation between Nichols and Morris, Morris told Nichols that one of their companions had confessed to the robbery. Nichols responded, "That's a wrap, Man. I'm going to the pen."

We appointed counsel to represent appellants on appeal. After examination of the record, appellants' counsel filed "Opening Briefs" in which no issues were raised.

On May 2, 2012, we advised Morris that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. No response has been received from him.

On April 16, 2012, we advised Nichols that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. On May 14, 2012, he filed a supplemental letter brief which, to the extent we can discern, contended that (1) Morris's admission of guilt was illegally obtained in violation of "due process under 8th Amendment," (2) a tape recording was illegally obtained in violation of the Fifth Amendment due process clause, the Sixth Amendment due to absence of legal counsel and without *Miranda*² warnings, (3) there was an illegal search and seizure under the Fourth Amendment and Sixth Amendment due process, and (4) the tape recording was improperly admitted hearsay.

We begin by observing that Nichols's contentions are generally stated without explanation, without supporting argument and without citation of authority. Points asserted on appeal without authority or argument will not be considered. (*People v.*

² *Miranda v. Arizona* (1966) 384 U.S. 436.

Wilkinson (2004) 33 Cal.4th 821, 846, fn. 9; *People v. Stanley* (1995) 10 Cal.4th 764, 793; *People v. Williams* (1997) 16 Cal.4th 153, 250.)

To the extent that Nichols unelaborated claims in numbers 1 through 3 above relate to the clandestine recording of his jailhouse conversation, we reject them. Police officers can monitor conversations in jail in the same way that they can do so in police cars. (*People v. Loyd* (2002) 27 Cal.4th 997, 1009, fn. 14; *People v. Davis* (2005) 36 Cal.4th 510, 528.)

We also reject Nichol's hearsay claim, as the tape recordings contained his admissions, an exception to the hearsay rule. (Evid. Code, § 1220 et seq.)

We have examined the entire record and are satisfied that appellants' attorneys have fully complied with their responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgments are affirmed.

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