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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

DARRELL RAULS,

Defendant and Appellant.

B238168

(Los Angeles County
Super. Ct. No. BA377556)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Sam Ohta, Judge. Affirmed.

Alan C. Stern, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On June 9, 2011, the jury found appellant Darrell Rauls guilty of second degree commercial burglary and attempted unlawful driving/taking of a vehicle. On November 8, 2011, the trial court denied appellant's motion for new trial and struck the prior allegations. That same day the trial court sentenced appellant on both counts although imposition of count two (attempted unlawful driving/taking of a vehicle) was stayed pending appellant's successful completion of the sentence imposed on count one. Appellant was sentenced to state prison for the upper-term of three years for second degree commercial burglary.

His appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues. His counsel also advised appellant he could file his own brief but has not done so.

STATEMENT OF FACTS

On October 31, 2010, about 6:15 a.m., Officers Robert Cain (Cain) and his partner John Otrosina (Otrosina) drove to a business known as 699 Rent-A-Car located at North La Brea Avenue in response to a possible suspicious activity at that location. The information provided that the suspect was a Black male, five feet eight inches tall, wearing all black clothing, and in possession of a backpack.

The officers parked their patrol car north of that location. They walked to the front of the location in question and saw an open gate. Otrosina covered the front door while Cain walked around to the rear parking lot. As Cain came around the corner of the building he saw a Kia automobile with the inside dome light on. The automobile's engine was running and the left driver side door was partly open. Although it was after 6:00 a.m. and somewhat dark outside, there was some light from the surrounding buildings.

Shortly thereafter appellant stepped out of the car and closed the door. The officers identified themselves and ordered appellant to put his hands up and walk to the nearby south wall of the building. Appellant initially said he did not recognize them as police officers and started to comply but then stopped. After appellant was threatened with the use of a taser and Otrosina started walking towards him, appellant suddenly ran

eastbound towards La Brea. While running appellant dropped several items, some from his hands and some from his pockets. The dropped items included a battery charger, a pair of pliers and some keys. When appellant started running, the officers called for help. Additional officers arrived at the scene and started running after appellant. At some point appellant fell and Otrrosina saw him drop two sets of keys and a remote control device. Appellant was ultimately arrested by Cain and Otrrosina.

After appellant was arrested Otrrosina and Cain inspected the area around the building, inside the building and the Kia.

During the inspection the officers observed, among other things, a broken window located on the left of the security door, a security gate removed and unsecured by tools, a rear wooden door pried open, a padlock on the ground with pry marks on top, a security gate that could not be locked as the dead bolt lock had been removed, the wooden door behind the security gate was left partly open, the left side of the wooden door frame had been pried open.

Inside the building Cain observed a small office that appeared to be the front counter of the business. Inside the office, he noticed a computer monitor on a desk without any CPU (central processing unit). Cables were showing that there should have been some connection on top of the desk.

As soon as the rest of the building had been cleared Cain entered another office. The door to that office had pry marks on the deadbolt and door frame leaving a dent on the door's handle. Inside that office he saw remnants of a window broken from the outside with a broken glass on a table inside.

Cain at some point searched the Kia. Inside the car on the center console he saw pliers, screwdrivers, flat head and miscellaneous hardware tools. On the right rear passenger side Cain saw a CPU desktop tower, two backpacks and a carry on. On the left side of the rear passenger seat he saw a laptop case. Inside the laptop case, he discovered a laptop computer, a label maker, digital camera, and miscellaneous office equipment. Cain also discovered 50-100 photocopies of driver's licenses, tax returns, receipts, social security cards; all of which belonged to other people.

Once Cain found the top backpack on top of the laptop bag with a brown paper bag inside it, he showed the items to appellant. Appellant initially identified them as belonging to him. But once confronted with the items inside the backpack he denied ownership of the backpack, except for the toiletries inside the brown bag.

The owner of 699 Rent-A-Car stated he did not know appellant and never gave him permission to enter his business. He said after the break-in several items were missing from his office, including a battery charger, a laptop computer, some photographic equipment, two cameras and a label printer. He said keys to rental cars were never left inside the vehicles. He said the other backpack and tools found in the backseat of the car did not belong to him. The owner's son works for him and testified he closed the business on October 30, 2010, at approximately 6:05 in the evening. He closed the gate and locked it with a padlock. He also locked the security door and wooden door in the rear of the business that leads to the offices inside. And he never gave appellant permission to enter the business or take the Kia. He further said the window near the security door was not broken when he left that evening and the keys to the Kia were on the keyboard in the office.

In his defense, appellant stated that on the date in question he had been at a function with some friends from college until 4:30 a.m. He then went and had breakfast. After breakfast he went to catch a bus on La Brea in order to get to Inglewood where he lived. At the bus stop he met a guy and they began to discuss marijuana. The man told appellant that he worked up the street and had marijuana for sale. Appellant said he then made a bad decision as he has done many times in the past and went with him. The man went to the back door of the business that was well lit, and told appellant to wait for him. While waiting, he went to a dark area between two cars and "used the restroom." He said the combination of medication he takes for high blood pressure makes it necessary for him to urinate often. The man never returned.

While at the business premises appellant said he paid no attention to the sign in front and although he saw cars in the back, he did not know this was a car rental business.

Appellant claimed never to have been inside the Kia. He said he was walking back to where he had been standing when two shapes appeared. Because he has problems with his eyes he did not believe they were police officers. Instead he thought someone might be trying to rob him. Appellant followed the officers command to go to the wall with his hands up. When he was told to get on his knees it scared him and as he turned around something hit him. When he woke up he was in a police car with his hands tightly handcuffed behind him. Appellant further claimed the two officers who testified came two hours later. They took him downtown where he received medical treatment because he was hurt. It was at that time he saw the faces of officers Cain and Otrrosina. Appellant denied ever running from the police or dropping any items while doing so.

DISCUSSION

Having reviewed the entire record, we are satisfied that no arguable issues exist and that appellant's counsel has fully satisfied his responsibilities under *Wende*. (*People v. Kelly* (2006) 40 cal.4th 106, 123-124; *Wende, supra*, 25 Cal.3d at p. 441.)

DISPOSITION

The judgment is affirmed.

FLIER, J.

WE CONCUR:

RUBIN, Acting P. J.

GRIMES, J.