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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.

ARMANDO ANTONIO MONROY,

Defendant and Appellant.

B240836

(Los Angeles County
Super. Ct. No. NA090435-03)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Arthur Jean, Jr., Judge. Affirmed.

Jonathan P. Fly, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury convicted Armando Monroy of attempted robbery (Pen. Code, §§ 211, 664.) The trial court sentenced Monroy to two years in state prison. We affirm.

FACTS

On October 25, 2011, Gabriela Rangel arrived at the parking lot at her job at Automac Parking. Automac collects money from parking machines and meters around Los Angeles County. Money collected is stored in a safe at the location where Rangel worked. Rangel knew the combination of the safe. On October 25 the safe contained over \$50,000. When Rangel arrived at work at around 8:00 a.m. that day, she noticed a minivan parked in the lot. A man later identified as Jose Serrano was in the driver's side of the minivan. Rangel saw him cover his face with his hand. The minivan was backed into the parking space. The hood of the van was up. Another man later identified as appellant was bending over the front of the van with his hands in the engine. Rangel got out of her car and began walking to the door of the building. Serrano had exited the minivan and approached Rangel, telling her they were having mechanical problems. Rangel said, "no problem," and continued walking to the door. When she opened the door with a key, she felt Serrano behind her. She turned and saw that he had put his finger to his lips and was making a shushing sound. Rangel pushed Serrano and yelled to her co-worker inside. Serrano pushed forward and moved partially inside the entryway. Rangel yelled again loudly to her co-worker. The co-worker rushed to the door. Serrano ran away.

Serrano ran to the minivan and got inside. The van started right away. The hood was still up. Rangel saw that there were no license plates on the van. She watched as appellant tried to get in the van as it quickly drove away. The door was opening and closing and appellant put his foot up and down several times, "practically leaping" in his attempt to get in. The hood of the van was still up. Rangel's co-worker saw a third man in the van. Neither woman saw any tools in appellant's hands at any time.

At around 8:10 a.m., a police officer saw a minivan speed through a stop sign. There were no license plates on the van. The officer pulled the van over. Appellant was sitting in the rear. When the officer directed appellant to get out of the van, he saw that appellant was wearing latex gloves. The officer heard on his patrol car radio that an attempted burglary had just taken place nearby. The call on the radio described the van the officer had just pulled over. There was no indication there were any mechanical problems with the van, such as smoke coming from the engine or noises.

On the ground next to the driver's side of the minivan, police found a black hooded sweatshirt. Inside the sweatshirt was a walkie-talkie and a pair of latex gloves. Police recovered two BB guns and two license plates from inside the van. At the crime scene, police later found a fuse box cover.

Appellant was tried on one count of attempted robbery.¹ The prosecution evidence established the facts summarized above. Appellant testified in his own defense. Appellant testified he was a mechanic who traveled to jobs. According to appellant, on October 25, he was hired by a man to repair the van. The man took him to the van. Appellant brought his toolbox, which he placed in the van as he worked. He took the fuse box lid off and checked the fuses. After replacing a fuse, the van was able to start, but as appellant was putting things back in place someone started the van and began to drive away. Appellant tried to get into the van because his toolbox was inside. On cross-examination appellant denied telling a police detective he was hired to work on the van while two other men "did a job." He also denied telling the detective he took the license plates off the van.

¹ The People originally charged appellant, Jose Serrano, and Lamberto Pena with two counts of attempted robbery and one count of conspiracy to commit robbery. The People eventually dismissed the attempted robbery count pertaining to Rangel's co-worker, and the conspiracy count. Appellant was tried alone.

A police detective subsequently testified that in an unrecorded interview, appellant admitted he was hired to pretend to work on the van. Appellant also told the detective he removed the fuse box cover and started removing the dash, but when the van took off he kept trying to jump inside. The prosecutor argued appellant was guilty on an aiding and abetting theory.

The jury found appellant guilty of attempted robbery. The trial court denied appellant's request for probation and sentenced him to the midterm of two years in state prison. The court assessed a \$200 victim restitution fund fine (Pen. Code, § 1202.4, subd. (b)), a \$40 court security fee (Pen. Code, § 1465.8, subd. (a)(1)), and a \$30 criminal conviction fine (Gov. Code, § 79373). A \$200 parole revocation fund fine was assessed and stayed pursuant to Penal Code section 1202.45.

DISCUSSION

Appellant filed a timely notice of appeal, and we appointed appellate defense counsel. On August 21, 2012, appellant's appointed counsel filed an opening brief raising no issues pursuant to *People v. Wende* (1979) 25 Cal.3d 436. On the same day, we notified appellant by letter that he could submit within 30 days any ground of appeal, contention, or argument which he wished us to consider. Appellant has not filed a response. We have independently reviewed the record submitted on appeal, and are satisfied that appellant's appointed counsel has fulfilled his duty, and that no arguable issues exist. (See *People v. Wende, supra*, 25 Cal.3d 436, *People v. Kelly* (2006) 40 Cal.4th 106.)

DISPOSITION

The judgment is affirmed.

BIGELOW, P. J.

We concur:

FLIER, J.

GRIMES, J.