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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.

ADOLFO GAMEZ,

Defendant and Appellant.

B245093

(Los Angeles County
Super. Ct. No. VA125419)

THE COURT:*

Defendant Adolfo Gamez appeals following his conviction by jury of one count of assault upon a peace officer with a deadly weapon in violation of Penal Code¹ section 245, subdivision (c). Defendant admitted having served two prior prison terms within the meaning of section 667.5, subdivision (b).

The trial court sentenced defendant to the midterm of four years and struck the enhancement for the oldest of the section 667.5, subdivision (b) allegations. The trial court imposed a consecutive one-year enhancement for the remaining allegation, for a total of five years in state prison. The trial court granted defendant 278 credit days, consisting of 139 actual days and 139 conduct credits.

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

¹ All further references to statutes are to the Penal Code unless stated otherwise.

We appointed counsel to represent defendant on this appeal. After examination of the record, counsel filed an "Opening Brief" acknowledging that she had been unable to find any arguable issues. On March 25, 2013, we advised defendant that he had 30 days within which to personally submit any contentions or issues that he wished us to consider. No response has been received to date.

The record shows that on June 21, 2012, Miriam Escobar was in the rear of her beauty salon when a man, later identified as defendant, entered the salon and closed the door. He tried to lock it, and he was shaking the door and the windows. He carried a white stick and wore neither shirt nor shoes -- only a pair of pants. He kept saying that someone was after him. He barricaded the door with a table. Defendant appeared to be "under the influence of something." Escobar left the salon through the back door and called 911 from a neighboring store. Another hairdresser took her client and other customers out the back door also.

Escobar saw two police officers arrive and approach her salon. Detective Jesus Gutierrez and his partner, Detective Giovanni Hernandez, were nearby and responded to the dispatch. They were wearing uniforms that gang detectives wear, which they wore at trial. The uniforms consist of jeans, a pullover vest with a patch that says "Police," and an embroidered badge on the vest that says "Detective" and "Huntington Park Police." Their shirt sleeves have a silk-screened image of the patch and also display the words "Huntington Park Police." The back of the vest says "Police" and "Gang Unit."

After speaking with the salon owner, the detectives approached the salon. Detective Gutierrez carried a taser, and Detective Hernandez carried his firearm. Defendant kicked open the door of the salon and rushed out carrying a headrest from a salon chair. The headrest consisted of a metal shaft and a metal crossbar at the rear of a cushion. Detective Gutierrez initially thought defendant carried a sledge hammer. Defendant was screaming and carrying the object above his head. Escobar saw the headrest at defendant's chest level, and other witnesses placed the headrest above

defendant's shoulder or above his head. Defendant ran toward Detective Gutierrez.² According to witnesses, defendant was told to stop by one of the police officers, but he did not.

From a distance of approximately 10 feet, Detective Gutierrez deployed his taser. When defendant saw the taser he put his head down and charged toward Detective Gutierrez "just like a bull." Detective Gutierrez was able to hit defendant with the taser. Defendant fell to his knees, and then his shoulder and face hit the ground. Defendant was handcuffed and treated by medical personnel. Defendant had to be restrained before being taken to the hospital. He received stitches in his face and spent the night in the hospital.

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

The judgment is affirmed.

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² The jury acquitted defendant of a second count of violating section 245, subdivision (c) and all lesser included offenses in relation to Detective Hernandez.