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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.

DWAYNE ADAMS,

Defendant and Appellant.

B266799

(Los Angeles County
Super. Ct. No. BA433524)

APPEAL from an order of the Superior Court of Los Angeles County. Edmund W. Clarke, Judge. Affirmed.

Megan Hailey-Dunsheath, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance by Plaintiff and Respondent.

Defendant went to his uncle's home, where the uncle was in the backyard with some friends and family, including his four-year-old daughter. Defendant was swinging a cane around wildly, which made the uncle concerned for his daughter. The uncle asked defendant to please leave if he was going to be doing that. Defendant left and said, "I'll be back."

Perhaps a half-hour later, defendant returned, holding a shotgun which was wrapped in a tarp. Defendant's uncle asked defendant what he was preparing to do; defendant said, "I'm getting ready to shoot you." The uncle asked if he was going to shoot the others; defendant said, "No, I just want to shoot you." Defendant's uncle believed him. He was in fear for the safety of himself and the others. In the meantime, defendant's friend had taken the child out of the way and called 911. A police helicopter arrived; when defendant saw the helicopter, he put the shotgun down and walked away. He was arrested leaving the property. When police recovered the gun, they discovered it was inoperable (and unloaded). From the outside, however, it looked like it could be operable.

Defendant was charged by information with assault with a firearm (Pen. Code, § 245, subd. (a)(2)) and criminal threats (Pen. Code, § 422). Each count carried a personal use of a firearm enhancement (Pen. Code, § 12022.5, subd. (a)).

The case proceeded to trial. At the close of the evidence, the trial court dismissed count one (assault with a firearm) under Penal Code section 1118.1. The jury found defendant guilty of count two (criminal threats). It found the personal use of a firearm allegation to be true.

Defendant was sentenced to the middle term of two years for the criminal threat, plus the middle term of four years on the firearm enhancement. Although the court initially awarded defendant full presentence conduct credits, the court realized its mistake and awarded only 15 percent credits, because the firearm use rendered the crime a violent felony. (Pen. Code, § 2933.1, subd. (c).)

Simultaneous to the jury trial on the information, the court held a court trial on whether defendant had violated his probation in another case. The court found probation violated and sentenced defendant to a consecutive one-year term for the prior offense.

Defendant filed a timely notice of appeal from the judgment in this case. On March 16, 2016, defendant's appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) in which no issues were raised. The brief included a declaration from counsel that she had reviewed the record and had sent defendant a letter advising him of counsel's intention to file a *Wende* brief and that defendant could file a supplemental brief if he chose to do so. That same day, this court sent defendant a letter advising him that a *Wende* brief had been filed and that he had 30 days to submit a brief or letter raising any issues he wished us to consider.

Defendant did not file a supplemental brief. However, on April 1, 2016, defendant filed a short letter requesting termination of his appointed counsel and substitution of new counsel on the basis that he could "find plenty to fight for[;] there are a ton of dis[crepan]cies in this case." Defendant requested "to have another attorney on this case that will actually take the time to look over the case."

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. (*Wende, supra*, 25 Cal.3d 436.) The evidence that defendant committed criminal threats, and personally used a firearm in the commission of the offense, was overwhelming. Defendant has not identified any arguable issues, nor has he established that appointed counsel is providing inadequate representation sufficient to justify appointment of substitute appellate counsel.

DISPOSITION

Defendant's request for appointment of substitute counsel is denied. The judgment is affirmed.

RUBIN, J.

WE CONCUR:

BIGELOW, P. J.

FLIER, J.