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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE, Plaintiff and Respondent, v. JOSEPH EUGENE ATKINSON, Defendant and Appellant.	C069792 (Super. Ct. No. 10F02869)

In exchange for a stipulated sentence of 16 years in state prison and the dismissal of other charges, defendant pled no contest to assault with a firearm (Pen. Code, § 245, subd. (b)) and admitted an enhancement for personal use of a firearm (Pen.

Code, § 12022.5, subd. (a)(1)) and a prior strike conviction (Pen. Code, §§ 667, subds. (b)-(i), 1170.12).[1]

Defendant waived his right to a probation report and was sentenced to prison for the 16-year term. Defendant received presentence custody credit of 501 days (436 actual, 65 conduct). The court imposed $400 restitution fines in accordance with Penal Code sections 1202.4 and 1202.45, a $30 conviction fee (Gov. Code, § 70373, subd. (a)(1)), and a $40 court security fee (Pen. Code, § 1464.8, subd. (a)(1)).

FACTS

On April 30, 2010, Silvia Marcial was outside of her apartment drinking with her friend Racquel. Defendant walked by and touched Racquel on the "butt." Marcial began arguing with defendant and Marcial's friend, Charles Gonzalez, came out of the apartment and confronted defendant, challenging defendant to fight. As the argument continued, defendant pulled a handgun but Gonzalez held his ground. Defendant retreated behind a wall of another building but kept looking at Marcial and Gonzalez. Defendant fired two shots, one of which struck Gonzalez.

DISCUSSION

Appointed counsel for defendant filed an opening brief that sets forth the facts of the case and asks us to determine whether there are any arguable issues on appeal. (*People v.*

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[1] The dismissed charges were attempted murder, assault with a firearm on Marcial, and possession of a firearm by a felon.

Wende (1979) 25 Cal.3d 436.) Counsel advised defendant of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. Defendant has done so.

In defendant's supplemental brief, he asks us to "look into his case to see if there was anything missing or overlooked . . . ." He specifically asks us to determine whether he was "hoodwinked" into entering his plea by his attorney. Defendant complains that his attorney failed to explain to him that by admitting the strike his sentence would be "doubled up."

We have reviewed the entire record and find no evidence of defendant being "hoodwinked" into accepting the plea bargain. The court and counsel explained to defendant that by pleading to the assault with a firearm and admitting the prior strike conviction he would be sentenced to 16 years -- the six-year midterm doubled because of the strike plus four years for the use of the firearm. The court asked defendant if he wanted to accept the plea bargain, he replied, "Yeah." The court also asked defendant, "Have you had enough time to talk to your lawyer about the elements of the offense, the consequences of your plea, and any legal defenses you might have?" Defendant replied, "Yeah." Consequently, the record contains no basis for a finding defendant was misled into accepting the plea bargain.

DISPOSITION

The judgment is affirmed.

BLEASE, Acting P. J.

We concur:

HULL, J.

DUARTE, J.