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COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

HENRY HARMON, SR.,

Defendant and Appellant.

C076988

(Super. Ct. No. CM041155)

On April 17, 2014, defendant Henry Harmon, Sr., entered a Rabobank branch in Paradise, California. He wore large, dark sunglasses, the hood of his coat was over his head, his beard and moustache were spray painted blue, and he was carrying a black-zippered lunch box. Defendant went to a teller, set the lunch box on the counter, and gave the teller a note which read, “This is a hold up. Stay calm. Do what I ask or I’ll get my gun. Put the money in the bag.” The teller activated the silent alarm and told defendant that she did not have any money. Defendant whispered to her, “Just do it.”

The teller reiterated she did not have any money. Defendant whispered, “Okay,” and left the bank. He was apprehended a week later.

Defendant pleaded no contest to attempted second degree robbery (Pen. Code, § 664/211)¹ and admitted a strike and two prior prison term allegations (§§ 1170.12, 667.5). The trial court sentenced defendant to eight years in state prison, imposed various fines and fees, and awarded 160 days of presentence credit (80 actual and 80 conduct).

Defendant appeals without a certificate of probable cause.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief.

In a supplemental brief defendant asks us to review whether his 1981 conviction for violating former subdivision (b) of section 245 supports the strike allegation he admitted as part of his no contest plea. In support of his claim, he asserts the prior conviction is 32 years old and it does not show on the face of the judgment that the prior is in fact a strike.

When defendant committed the prior assault in 1981, former subdivision (b) of section 245 prohibited assault with “a deadly weapon or instrument or by any means likely to produce great bodily injury” on a peace officer or firefighter. Assault on a peace officer or firefighter in violation of section 245 is a serious felony and therefore a strike. (§ 1192.7, subd. (c)(31).) The fact that the prior conviction took place in 1981 is of no consequence as to the issue of whether it is a serious felony and strike. Finally, any

¹ Undesignated statutory references are to the Penal Code.

doubt as to whether every form of violating former subdivision (b) constitutes a serious felony is resolved by defendant's admitting the strike allegation. "Admissions of enhancements are subject to the same principles as guilty pleas. [Citation.] A guilty plea admits every element of the offense charged and is a conclusive admission of guilt. [Citations.] It waives any right to raise questions about the evidence, including its sufficiency. [Citation.]" (*People v. Lobaugh* (1987) 188 Cal.App.3d 780, 785.)

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

_____ HULL _____, J.

We concur:

_____ BLEASE _____, Acting P. J.

_____ RENNER _____, J.