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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

DANNY LAWRENCE THOMPSON,

Defendant and Appellant.

D059006

(Super. Ct. No. SWF026533)

APPEAL from a judgment of the Superior Court of Riverside County, Raymond C. Lundquist, Judge. Affirmed.

A jury convicted Danny Thompson of two counts of kidnapping for the purpose of robbery (Pen. Code,¹ § 209, subd. (b)) and three counts of second degree robbery (§ 211). The jury found that Thompson personally used a firearm within the meaning of

¹ Statutory references are to the Penal Code.

section 12022.53, subdivision (b) in committing each of these crimes.² In a bifurcated proceeding, Thompson admitted he had a prior serious felony conviction (§ 667, subd. (a)) and two prior strike convictions (§ 667, subds. (b)-(i)). The trial court sentenced Thompson to an indeterminate term of 75 years to life plus a determinate term of 45 years.

FACTS

On July 31, 2008, at approximately 4:00 p.m., Thompson parked his car behind the Papa John's pizza store in Menifee, in an area for employee parking. At the same time, Andrew Rodriguez, who delivered pizzas for Papa John's, parked his vehicle behind the store. Rodriguez noticed Thompson stepping out of his car and approaching Garrett Keller, a Papa John's employee, who was taking a cigarette break outside. As Rodriguez began walking to the front of the store, Thompson asked him to come over. Rodriguez stopped and asked "what's up?" Thompson pulled out a gun and ordered Rodriguez to approach him. Rodriguez obliged.

Thompson told Rodriguez and Keller he was going to rob the Papa John's store and he wanted the two employees to take him inside through the back door. Rodriguez and Keller repeatedly told Thompson that the back door was locked to the outside and it was impossible to enter the store by the back door unless someone in the store opened the

² The jury was unable to reach verdicts on three other counts stemming from a different incident: one count of second degree robbery and two counts of false imprisonment (§ 236). The jury also was unable to reach a verdict on one count of possession of a firearm by a felon (former Pen. Code, § 12021.1, subd. (a)). The court declared a mistrial on these counts and dismissed them in the interest of justice.

door; hence, the only way to enter the store was through the front door. Then Thompson led Rodriguez and Keller by gunpoint from the back parking area, around the side of the building and to the front door of the Papa John's store—a distance of more than 100 feet. Thompson put the gun inside his pocket before entering the store. There were customers inside the store and Thompson told Rodriguez and Keller to act normally. Rodriguez and Keller, with Thompson behind them, walked over to the night manager on duty, Delia Costantino.

Rodriguez told Costantino: "We [are] being robbed and . . . the man behind us ha[s] a gun, and . . . we [aren't] messing around. It's not a joke."

Costantino emptied the cash from the safe and the two cash registers, and put the money in a small pizza box, which she handed to Thompson. There was \$200 to \$300 in the safe and about \$90 in each register. After the last customer left the store, Thompson told Costantino to lock the front door. After at least one employee left the store by the back door, Thompson made a call on his cell phone. He was overheard saying on the phone that two employees had left and he did not know whether it would "get messy now or not. The plan's changed." Subsequently, Thompson left the store through the back door.

DISCUSSION

Appointed appellate counsel has filed a brief setting forth evidence in the superior court. Counsel presents no argument for reversal, but asks that this court review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Counsel has not

referred us to any possible but not arguable issues. (See *Anders v. California* (1967) 386 U.S. 738).

We granted Thompson permission to file a brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738 has disclosed no reasonably arguable appellate issue. Competent counsel has represented Thompson on this appeal.

DISPOSITION

The judgment is affirmed.

McCONNELL, P. J.

WE CONCUR:

McDONALD, J.

AARON, J.