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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

DANNY LOPEZ,

Defendant and Appellant.

E054614

(Super.Ct.Nos. SWF1100369 &
SWF029661)

OPINION

APPEAL from the Superior Court of Riverside County. Raymond C. Youngquist, Judge. (Retired judge of the San Bernardino Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Janice R. Mazur, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Danny Lopez is serving a three-year state prison term after a jury found him guilty of a 2011 attempted robbery with a deadly weapon enhancement in case No. SWF1100369. He is also serving a concurrent two-year term

for a 2009 conviction for unlawful entry of a motor vehicle, after his probation was revoked, in case No. SWF029661. Defendant appeals from both cases.

FACTS AND PROCEDURE

On November 16, 2009, in Case No. SWF029661, defendant pled guilty to unlawfully entering a motor vehicle (Pen. Code, § 459)¹ and attempting to unlawfully take a motor vehicle (Pen. Code, § 664; Veh. Code, § 10851, subd. (a).) That same day, the court granted defendant three years of probation, with conditions including that he serve 180 days in county jail and violate no laws.

On December 15, 2009, the People filed a petition alleging defendant had violated probation by being drunk in public. (§ 647.) On December 22, 2009, defendant's probation was reinstated. On September 22, 2010, the People again filed a petition alleging defendant had violated probation by being drunk in public. On October 12, 2010, defendant's probation was again reinstated, but defendant was ordered to serve an additional 60 days in custody.

On February 5, 2011, about 11:30 p.m., defendant, with his white T-shirt pulled up over his face, approached a truck driver in the parking lot of an inn. Defendant had a large hammer in his right hand, held straight down at his side. Defendant told the truck driver "I need some money. I need \$100." The truck driver was afraid of the hammer because it looked menacing. He took all of his money out of his wallet and told defendant it was \$10 or \$15. Defendant said again that he needed \$100, but the truck

¹ All section references are to the Penal Code unless otherwise indicated.

driver again said that he did not have that much. Defendant told the truck driver “Go on, get out of here.” Defendant was apprehended one-quarter mile or so away.

On June 14, 2011, a jury found defendant guilty of attempted robbery (§§ 664, 211) and found true that he had personally used a dangerous weapon (§§ 12022, subd. (b)(1), 1192.7, subd. (c)(23)).

On August 19, 2011, the court revoked defendant’s probation in the 2009 matter. On that day, the court sentenced defendant to two years for the attempted robbery plus one year for the personal use enhancement, for a total of three years. Regarding the 2009 case, the court sentenced defendant to two years, to be served concurrently with the sentence for the robbery case. This appeal followed.

DISCUSSION

Defendant appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d 493], setting forth a statement of the case, a summary of the facts, and potential arguable issues and requesting this court to conduct an independent review of the record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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RAMIREZ
P. J.

We concur:

HOLLENHORST
J.

KING
J.