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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.

TOM KILGORE, JR.,

Defendant and Appellant.

E055077

(Super.Ct.No. RIF1102615)

OPINION

APPEAL from the Superior Court of Riverside County. Eric G. Helgesen, Judge.
(Retired judge of the former Tulare Mun. Ct. assigned by the Chief Justice pursuant to
art. VI, § 6 of the Cal. Const.) Affirmed.

Anita Jog, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Tom Kilgore, Jr. pled guilty to robbery (Pen. Code,
§ 211) and admitted that he had personally used a firearm in the commission of the crime
(Pen. Code, § 12022.53, subd. (b)). Defendant also admitted that he had suffered one

prior serious and violent felony strike conviction (Pen. Code, §§ 667, subds. (c), (e)(2)(A), 1170.12, subd. (c)(2)(A)). In return, the remaining allegations were dismissed, and defendant was sentenced to a stipulated term of 20 years in state prison with credit for time served. Defendant appeals from the judgment, challenging the sentence or other matters occurring after the plea. We find no error and affirm the judgment.

FACTUAL BACKGROUND¹

On May 22, 2011, the victim was walking down a street when a black Honda pulled into a small parking lot in front of him. A passenger, identified as defendant, then exited the car with a gun, approached the victim, and asked him for money. Because the victim was afraid for his safety, he handed defendant some change, a cellular telephone, and his backpack. In addition, defendant physically grabbed some headphones and an MP3 player off of the victim's person.

The victim memorized the vehicle's license plate number, and on May 28, 2011, police stopped the suspect vehicle following a pursuit. When the vehicle finally stopped, the driver, identified as defendant, attempted to flee. Defendant was the sole occupant in the vehicle. Defendant was eventually taken into custody. The victim identified defendant as the robber in a photographic lineup.

Following the preliminary hearing, an information was filed charging defendant with robbery (Pen. Code, § 211, count 1), the personal use of a firearm (Pen. Code, § 12022.53, subd. (b)), and willfully evading a police officer with wanton disregard for

¹ The factual background is taken from the testimony at the preliminary hearing.

public safety (Veh. Code, § 2800.2, count 2). The information further alleged that defendant had suffered three prior serious felony convictions (Pen. Code, § 667, subd. (a)), and three prior serious and violent felony strike convictions (Pen. Code, §§ 667, subds. (c), (e)(2)(A), 1170.12, subd. (c)(2)(A)).

On October 12, 2011, pursuant to a plea agreement, defendant pled guilty to count 1 and admitted one prior serious and violent felony strike conviction. In return, defendant was promised a stipulated term of 20 years in state prison and the dismissal of the remaining charge and allegations. The trial court found that the guilty plea and admission were entered into freely and voluntarily and that defendant knowingly and intelligently waived his rights.

On November 18, 2011, defendant was sentenced in accordance with his plea agreement and awarded credit for time served.

Defendant subsequently filed a notice of appeal based on the sentence or other matters occurring after the plea. He did not request a certificate of probable cause.

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, setting forth a statement of the case, a summary of the facts and potential arguable issues, and requesting this court 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:

RICHLI
J.

KING
J.