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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.

PABLO GUTIERREZ, JR.,

Defendant and Appellant.

E055354

(Super.Ct.No. INF1100210)

OPINION

APPEAL from the Superior Court of Riverside County. Richard A. Erwood,
Judge. Affirmed with directions.

Richard Jay Moller, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

A jury found defendant and appellant Pablo Gutierrez, Jr., guilty of robbery (Pen.
Code, § 211, count 1);¹ assault by means of force likely to cause great bodily injury

¹ All future statutory references are to the Penal Code unless otherwise stated.

(§ 245, subd. (a)(1), count 2); and resisting arrest (§ 148, subd. (a)(1), count 4).² The jury also found true that in the commission of counts 1 and 2 defendant personally inflicted great bodily injury upon the victim, a person 70 years of age or older. (§ 12022.7, subd. (c).) Defendant was sentenced to a total term of eight years in state prison with credit for time served. Defendant appeals from the judgment. We affirm with directions to correct a clerical error in the abstract of judgment.

FACTUAL BACKGROUND

On January 26, 2011, around 3:00 p.m., the victim's daughter drove the 79-year-old victim to a linen store in La Quinta. When they arrived at the location, they noticed a man, identified as defendant, sitting on a bench near the store.

As the victim, who was carrying a purse on her wrist, approached the entrance of the store, defendant slammed her to the ground, snatched her purse, and fled. A witness saw defendant run by him with a purse. After the witness heard someone ask for his help, he called 911. The witness also saw defendant empty the contents of the purse on the ground and take some items. The witness observed defendant, but lost sight of him after he jumped a nearby fence.

At the same time, an officer responded to the scene and saw defendant coming out of some bushes. While the officer was watching defendant and waiting for a better description of the suspect, he heard a woman yell, ““That’s him.”” The officer ordered

² The jury was unable to reach a verdict on count 3, elder abuse. (§ 368, subd. (b)(1).) Count 3 was later dismissed by the trial court.

defendant to stop, but defendant continued to flee. Following a brief chase, defendant was taken into custody. Defendant had a few hundred dollar bills in his hands. The victim's purse was recovered in nearby bushes.

After defendant waived his constitutional rights, he admitted to snatching the victim's purse. He claimed that he was not paying attention to the victim's age, and was shocked that the victim had been injured. He also admitted to discarding the purse and taking the money.

As a result of the incident, the victim broke her wrist trying to break her fall. She also felt pain in her pelvis and wrist and could not stand. She was hospitalized for several days, had a plate surgically placed in her fractured wrist, and had to wear a cast for approximately eight weeks.

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. However, we note that the abstract of judgment incorrectly indicates defendant was

convicted of assault with a deadly weapon in count 2. The record clearly indicates that defendant was charged with, and convicted of, assault by means of force likely to cause great bodily injury. As is appropriate, we will therefore order this clerical error corrected. (*People v. Mitchell* (2001) 26 Cal.4th 181, 186-187.)

DISPOSITION

The clerk of the superior court is directed to correct the abstract of judgment to reflect that defendant was convicted of assault by means of force likely to cause great bodily injury (§ 245, subd. (a)(1)) in count 2, and to forward a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. (§§ 1213, 1216.) In all other respects, the judgment is affirmed.

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RAMIREZ
P. J.

We concur:

HOLLENHORST
J.

KING
J.