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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.

PERRY GIOVANNI ADAMS,

Defendant and Appellant.

E060354

(Super.Ct.No. FVI702102)

OPINION

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

Patrick E. DuNah, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

I

INTRODUCTION

On April 17, 2009, a jury convicted defendant and appellant Perry Adams of kidnapping to commit robbery under Penal Code¹ section 209, subdivision (b)(1); second degree attempted robbery under sections 664 and 211; and assault with a firearm under section 245, subdivision (a)(2). A firearm use enhancement under section 12022.53, subdivision (b), as to the kidnapping conviction, and great bodily injury enhancement under section 12022.7, subdivision (a), as to all three convictions were also found true. On May 8, 2009, the court sentenced defendant to a term of 13 years to life in state prison.

On October 28, 2013, defendant filed a petition in propria persona for resentencing under section 1170.126. On November 25, 2013, the court denied the petition. Defendant filed a timely notice of appeal from the denial of his petition for resentencing.

II

STATEMENT OF FACTS

Defendant went into a business and asked the victim about the price of a water cooler. When the victim went to the cash register to determine the price, defendant pulled out a gun. The victim fought with defendant and was hit on the head several times with the gun. Defendant physically forced the victim from the showroom floor to the back office where defendant continued to strike the victim. When the victim began to

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

fight back and screamed for help, defendant hit him with the butt of the gun. Defendant then grabbed the victim and dragged him from the office to the employee bathroom. Once there, defendant continued to hit the victim harder and harder in the head with the butt of the gun. Then, when defendant started to flee, the victim gave chase. While chasing defendant, the victim saw defendant toss the black and brown gun away. Witnesses also saw defendant running with his gun and tossing it in the bushes as the victim was chasing defendant. Deputies retrieved the gun from the bushes. The gun did not have any ammunition in the chamber and did not have a magazine. Several witnesses and the victim identified defendant.

III

ANALYSIS

After 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 to undertake a review of the entire 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 conducted an independent review of the record and find no arguable issues.

IV
DISPOSITION

The judgment is affirmed.

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RICHLI
J.

We concur:

HOLLENHORST
Acting P. J.

CODRINGTON
J.