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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.

RAUL CASTILLO, JR.,

Defendant and Appellant.

E062443

(Super.Ct.No. FVA1200748)

OPINION

APPEAL from the Superior Court of San Bernardino County. Dan Detienne,
Judge. Affirmed.

James R. Bostwick, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant Raul Castillo, Jr. is serving 12 years in state prison after a jury
convicted him of assault with a great bodily injury enhancement and defendant admitted
a prior strike and a prior serious felony. We affirm.

FACTS AND PROCEDURE

Defendant and the victim were high school acquaintances. On the evening of May 27, 2012, they spent the evening with mutual friends at one of the friend's homes. The group decided to go to a restaurant together. The victim offered defendant a ride in his car if defendant would drive to and from the restaurant. The victim testified that he later noticed defendant was not doing much at the restaurant and offered to lend him \$50 for the evening, with the understanding that defendant would repay the victim later that night when he got home. At the end of the evening, defendant drove himself and the victim to defendant's home. The victim intended to leave his car parked in front of defendant's home and walk the short distance to their mutual friend's home and return for the car in the morning when he was sober.

The victim testified that both men exited the car and he asked defendant if he was going inside to get the money to pay him back. Defendant said he was. At some point, the two met in defendant's driveway, where defendant told the victim that he was not going to pay him back and asked the victim if he wanted to fight. The victim said he did not, and again asked for his money. The victim testified that defendant struck him in the face with what felt like a metal object. The victim blacked out and fell in a kneeling position with his hands to the ground. He felt the defendant continue to strike him on the back of the head with his fists. When the victim was able to latch onto defendant, defendant bit him in the upper arm, side and neck. Defendant told the victim "If you tell the police, I'm going to kill you," and demanded that he hand over his identification and money. The victim gave defendant his temporary driver's license and the

approximately \$150 he had on him and said, “Here, just take the money, just let me go.” The victim eventually got up and ran to his car. He was treated at the hospital and was in a lot of pain. He had cuts around his left eye, which required stitches and glue to close, and a broken collar bone. The victim later had surgery to remove bone fragments from his cheek, which required an incision that was closed using 30 stitches. The victim had headaches for more than a month, and was left with permanent facial scars.

Defendant testified that he did not borrow any money from the victim. He also testified that the victim accosted defendant in the driveway with a gun, demanding money and to be let inside the house. Defendant refused because his parents and children were inside the home. Defendant testified that he attacked the victim in self defense and only released him from a choke hold when his mother came outside and told him to stop.

Defendant’s mother testified that she heard yelling outside her home and opened the door to see what was happening. She saw her son on top of the victim, hitting him. She also saw a gun on the edge of the driveway. She told her son to come inside. She heard the man yell something about coming back. She then roused the entire family and they all left the house. They dropped off defendant at a friend’s house and then drove around until morning because she was fearful the man would come back.

The People filed a first amended information charging defendant in count one with second degree robbery (Pen. Code, § 211),¹ in count two with assault by means likely to produce great bodily injury (§ 245, subd. (a)(4)), and in count three with making criminal

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

threats (§ 422). The People also alleged as to counts one and two that defendant inflicted great bodily injury. (§ 12022.7) The People alleged that defendant had suffered a prior serious felony conviction (§ 667, subd. (a)) and a prior strike conviction (§§ 1170.12, subds. (a)-(d) & 667, subds. (b)-(i)).

On August 7, 2014, the jury found defendant not guilty of count one and was unable to reach a verdict on count three. The jury convicted defendant of the assault charge in count two, and found true the allegation that he inflicted great bodily injury. That same day, defendant admitted the prior convictions.

On November 14, 2014, the court denied defendant's *Romero*² motion under section 1385. The court sentenced defendant to a total of 11 years as follows: the upper term of four years for the assault, doubled to eight years for the strike prior, plus three consecutive years for the great bodily injury enhancement. On that date defendant filed his notice of appeal.

On February 20, 2015, the court recalled defendant's sentence under section 1170, subdivision (d), and re-sentenced him to 12 years in prison as follows—the low term of two years for the assault, doubled to four years for the strike prior, plus three consecutive years for the great bodily injury enhancement, plus five consecutive years for the prior serious felony conviction.

² *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497.

DISCUSSION

This court appointed appellate counsel to represent defendant. 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 identifying potentially arguable issues.

Defendant was offered the opportunity to file a personal supplemental brief, but he has not done so.

Under *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment of conviction and sentence are affirmed.

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RAMIREZ
P. J.

We concur:

McKINSTER
J.

MILLER
J.