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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

SAMUEL RAMIREZ BRAVO,

Defendant and Appellant.

F060942

(Super. Ct. No. BF123948A)

**OPINION**

APPEAL from a judgment of the Superior Court of Kern County. Gary T. Friedman, Judge.

Carlo Andreani, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Louis M. Vasquez, Leanne LeMon, and Lewis A. Martinez, Deputy Attorneys General, for Plaintiff and Respondent.

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A jury convicted Samuel Ramirez Bravo of robbing three convenience stores at gunpoint and of the first degree felony murder of Youll Kwon in a failed robbery of another convenience store. The sentence imposed included a term of life in prison without the possibility of parole. Bravo argues that the judgment must be reversed because the trial court erred in instructing the jury. We reject Bravo's arguments, but, even if there was error, the error did not result in a miscarriage of justice. (Cal. Const., art. VI, § 13.) We thus affirm the judgment.

## **FACTUAL AND PROCEDURAL SUMMARY**

### ***The Information***

The information charged Bravo with first degree murder, in violation of Penal Code sections 187, subdivision (a),<sup>1</sup> and 189 (count 1), and five counts of first degree robbery, in violation of section 212.5, subdivision (a) (counts 2, 3, 4, 5, and 6). The People dismissed count 6 at the commencement of trial because the victim was unavailable to testify. Each remaining robbery count was later amended to reflect a violation of section 212.5, subdivision (c), second degree robbery. Each robbery count also alleged as an enhancement that Bravo personally used a firearm within the meaning of section 12022.53, subdivision (b). The murder count also alleged as enhancements that (1) Bravo discharged a firearm, causing death within the meaning of section 12022.53, subdivision (d), and (2) the murder was committed during the course of a robbery or burglary within the meaning of section 190.2, subdivision (a)(17)(A) and (G), subjecting Bravo to a penalty of death or life in prison without the possibility of parole. Prior to trial, the People waived the right to seek the death penalty.

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<sup>1</sup>All further statutory references are to the Penal Code.

### ***The Prosecution's Evidence***

We provide a brief review of the evidence since Bravo does not challenge the sufficiency of the evidence. Each crime occurred at a different convenience store in Kern County. Also, while the information charges the murder of Kwon in count 1, chronologically, this was the last of the charged crimes.

#### ***Count 1***

Ivan Marin lived next door to a convenience market owned by Kwon. On the date of the robbery, Marin was in his front yard when a vehicle parked in front of his house. He noticed a gold leaf design or decal on the gas tank filler cover. Marin identified a picture of Bravo's vehicle as the vehicle that parked in front of his house and a picture of the distinct decal on the gas tank filler cover.

The man driving the vehicle walked into the convenience store. Shortly thereafter Marin heard five or six gunshots. The man ran back to his vehicle and drove off. Marin ran to the convenience store to check on Kwon. When Marin opened the door to the market, he saw Kwon on the floor covered in blood.

Gustavo Marin, Sr., Ivan Marin's father, also was present that day. He confirmed the majority of Ivan's testimony but added that the man driving the vehicle had a gun in his hand when he exited the convenience store and returned to his vehicle. He also saw the unique decal on the gas tank filler cover of the perpetrator's vehicle. He also observed blood running down the perpetrator's forehead after the perpetrator left the market.

While neither witness was able to identify Bravo as the gunman, other evidence connected Bravo to the crime.

A golf club and baseball bat that were near Kwon were recovered from the scene. Outside the store a small trail of blood drops leading away from the store was discovered. Samples were taken of these blood drops for DNA testing.

When Bravo was arrested three days after the murder, he had a laceration to his head. DNA testing established Bravo as the person whose blood was found in the parking lot. He also was driving a vehicle with the same distinctive decal on the gas tank filler cover. Ammunition from the same manufacturer, and of the same caliber, as was used to murder Kwon was found at Bravo's residence.

Finally, Bravo's interview by the police was played for the jury. In the relevant portions of the interview, Bravo stated that he picked up a six-pack of beer and took it to the counter. He told Kwon that he needed or wanted money. Kwon did not appear to understand. Kwon took out a bat and then came at him and hit him. Bravo pointed the gun at Kwon and told him not to move. Bravo admitted he shot at Kwon about six times with a .45-caliber gun. Bravo was unsure why he shot at Kwon, but stated he (Bravo) was angry and went crazy. He later threw the gun in a canal. Bravo also admitted committing at least two of the robberies.

Kwon was shot three times, once in the chest, once in the abdomen, and once in the front of his left hip. The bullet that entered Kwon's hip damaged a bone in the pelvis, damaged the large and small bowels, and transected the iliac artery, causing death. The bullet that entered the chest damaged the lung and could have been fatal unless Kwon was rushed to the hospital. The final wound did not damage any internal organs.

### ***Count 2***

Champhang Milaythong owned a convenience market and was working on the date of the robbery. A man came into the store and picked up some beer and brought it to the counter as if to purchase it. The perpetrator reached into his pocket and pulled out a gun. The perpetrator said something in Spanish that Milaythong did not understand. The perpetrator then pointed to the cash register. Milaythong assumed the perpetrator wanted the cash, so he opened the cash register and put the tray of cash on the counter. The perpetrator took the money from the tray. He then pointed at Milaythong's watch so Milaythong gave the watch to the perpetrator.

The perpetrator then made a motion that Milaythong did not understand, so the perpetrator swung at Milaythong with the gun, striking him. The perpetrator also kicked Milaythong in the head and then left.

The store was equipped with video surveillance equipment that recorded the robbery. A video of the robbery was played for the jury.

### ***Count 3***

Malik Therani was the clerk at the convenience store on the date of the robbery. Bravo came in that day and bought a beer and then left the store. A few minutes later Bravo returned to the store, pointed a gun at Therani, and demanded the money in the cash register. Therani gave Bravo the money and Bravo left.

The store had video recording equipment for security. A video recording (no audio) of the events described by Therani was played for the jury. Therani was able to identify Bravo, his (Therani's) wife (also a clerk at the store), and himself in the video. He also pointed out the gun Bravo used in the robbery. Bravo stole approximately \$500.

### ***Count 4***

Therani's wife, Leila Therani, also was present during the robbery described in count 3. She confirmed her husband's testimony and also identified Bravo as the perpetrator.

### ***Count 5***

Suliman Murshed owned a convenience store on the date of the robbery when Bravo entered the store with a gun in his hand and demanded money. Murshed complied with the demand. The store had a security video system that was operational on the day of the robbery. The video of the robbery was played for the jury. Bravo stole approximately \$300 in the robbery.

### ***The Defense Evidence***

Bravo testified on his own behalf. In essence, Bravo admitted committing the robberies in counts 2, 3, 4, and 5, but denied attempting to rob Kwon's market or killing

Kwon. He explained his blood at the scene by stating he had hurt himself at work and stopped at the convenience store to use the pay phone. He claimed that he confessed to the killing because he was threatened by police before the recorded interview.

### ***Closing Argument***

The prosecutor argued in closing that Bravo was guilty as charged based on his admissions, and the intent to rob Kwon was established by the preceding three robberies.

Defense counsel admitted that Bravo committed the robberies identified in counts 2, 3, 4, and 5. Defense counsel argued, in essence, that if the jury believed Bravo's testimony, Bravo was not guilty of any crime related to Kwon's death. On the other hand, if the jury found Bravo was inside the store, he was not guilty of felony murder but was guilty only of either second degree felony murder or voluntary manslaughter. Both arguments were based on the theory that Bravo did not display the gun until after Kwon hit Bravo on the head with the bat.

### ***The Verdict and Sentencing***

The jury convicted Bravo of first degree felony murder and of four counts of second degree robbery. In addition, each enhancement alleged in the petition was found true.

Bravo was sentenced to life without the possibility of parole for the first degree murder, plus a term of 25 years to life for the enhancement. The trial court sentenced Bravo to eight years in prison for the four robbery counts, plus 20 years for the firearm enhancements.

## **DISCUSSION**

During the jury instruction conference, defense counsel argued the trial court should instruct the jury with self-defense instructions on the theory that the jury could conclude that Kwon attacked Bravo with the baseball bat without provocation, and Bravo acted in self-defense when he shot Kwon. The trial court agreed that it was possible for the jury to so conclude based on the evidence, even though the trial court found such a

finding very unlikely. As a result, the prosecutor submitted, without objection, several instructions regarding Kwon's right to defend his person and property. Bravo asserts the instructions were incorrect statements of the law and, as a result, we must reverse the judgment.

### ***Self-Defense Principles***

We begin with an overview of the law of self-defense. The law of self-defense, or justifiable homicide, finds its statutory basis in section 197. As applicable here, a homicide is justified when it is "committed in defense of habitation, property, or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony ...." (§ 197, subd. (2).) The elements that a defendant must prove to establish he or she acted in self defense are (1) the defendant reasonably believed that he or she was in imminent danger of suffering bodily injury, (2) the defendant reasonably believed that the immediate use of force was necessary to defend against that danger, and (3) the defendant used no more force than was reasonably necessary to defend against that danger. (CALCRIM No. 3470.)

Generally, a person who is attacked is not required to retreat. Instead, he or she has the right to "stand his ground" and defend himself or herself, even if deadly force is required. (1 Witkin & Epstein, Cal. Criminal Law (3d ed. 2000) Defenses, § 74, p. 408.) However, a person who wrongfully attacks another and is met with a counter-attack has no privilege to "stand his ground." (*Id.*, *supra*, § 75, p. 409.) The exception to this rule occurs when the original aggressor attempts to withdraw and informs his opponent that he is withdrawing from the fight. (*Ibid.*)

A defendant charged with felony murder may not rely on self-defense to avoid criminal responsibility because the purpose of the felony-murder rule is to deter killings, even accidental killings, by imposing strict liability on persons who kill while committing specified felonies. (*People v. Loustana* (1986) 181 Cal.App.3d 163, 170 (*Loustana*),

cited with approval in *People v. Robertson* (2004) 34 Cal.4th 156, 165, overruled on other grounds in *People v. Chun* (2009) 45 Cal.4th 1172, 1201.)

### ***Bravo's Arguments***

With these principles in mind, we now turn to the relevant instructions given in this case. The trial court initially instructed the jury on the law of self-defense pursuant to CALCRIM No. 3470.<sup>2</sup> Next, the trial court instructed the jury on the right to self-defense when the defendant is the initial aggressor or engages in mutual combat pursuant to CALCRIM No. 3471.<sup>3</sup> The trial court next instructed the jury that one who provokes a

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<sup>2</sup>The instruction as read to the jury stated: “The defendant is not guilty of murder or manslaughter if he was justified in killing someone in self-defense. The defendant acted in this lawful self-defense if, one, the defendant reasonably believed he was in imminent danger of being killed or suffering great bodily injury; two, the defendant reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and, three, the defendant used no more force than was reasonably necessary to defend against that danger. [¶] Belief in future harm is not sufficient no matter how great or how likely the harm is believed to be. The defendant must have believed there was an imminent -- there was imminent danger of great bodily injury to himself. Defendant’s belief must have been reasonable, and he must have acted only because of that belief. The defendant is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation. If the defendant used more force than was reasonable, the killing was not justified. [¶] When deciding whether the defendant’s beliefs were reasonable, consider all of the circumstances as they were known and appeared to the defendant and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the defendant’s beliefs were reasonable, the danger does not need to have actually existed. [¶] A defendant is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger of death or great bodily injury has passed. This is so even if safety could have been achieved by retreating. [¶] Great bodily injury means significant or substantial physical injury. It is an injury that is greater than minor or moderate harm. [¶] The People have the burden of proving beyond a reasonable doubt that the killing was not justified. If the People have not met this burden, you must find the defendant not guilty of murder or manslaughter.”

<sup>3</sup>The instruction as read to the jury stated: “A person who engages in mutual combat or who is the initial aggressor has a right to self-defense only if, one, he actually and in good faith tries to stop fighting; and, two, he indicates by word or by conduct to his opponent in a way that a reasonable person would understand that he wants to stop

fight with the intent to create an excuse to use force is not acting in self-defense pursuant to CALCRIM No. 3472.<sup>4</sup> The trial court also instructed the jury that the right to use self-defense ends when the attacker withdraws or is no longer capable of inflicting injury pursuant to CALCRIM No. 3474.<sup>5</sup> Finally, the trial court instructed the jury with modified versions of CALCRIM Nos. 3475<sup>6</sup> (property owner's right to eject a trespasser) and 3476<sup>7</sup> (property owner's right to protect his property).

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fighting and that he has stopped fighting. [¶] If a person meets these requirements, he then has a right to self-defense if the opponent continues to fight.”

<sup>4</sup>The instruction as read to the jury stated: “A person does not have the right to self-defense if he or she provokes a fight or quarrel with the intent to create an excuse to use force.”

<sup>5</sup>The instruction as read to the jury stated: “The right to use force in self-defense continues only as long as the danger exists or reasonably appears to exist when the attacker is no longer -- when the attacker is no longer -- I think there's a typo here. When the attacker is no longer -- or no longer appears to be -- no longer appears to be capable of inflicting any injury, then the right to use force ends.”

<sup>6</sup>The instruction as read to the jury stated: “The owner of a property may request that a trespasser leave the property. If the trespasser does not leave within a reasonable time and it would appear to a reasonable person that the trespasser poses a threat to the property or the owner, the owner may use reasonable force to make the trespasser leave. [¶] Reasonable force means the amount of force that a reasonable person in the same situation, if believed, is necessary to make the trespasser leave. [¶] If the trespasser resists, the owner may increase the amount of force he or she uses in proportion to the force used by the trespasser and the threat the trespasser poses to the property. [¶] When deciding whether the owner used reasonable force, consider all of the circumstances as they were known to and appeared to the owner and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the owner's beliefs were reasonable, the danger does not need to have actually existed.”

<sup>7</sup>The instruction as read to the jury stated: “The owner or possessor of real or personal property may use reasonable force to protect that property from imminent harm. [¶] Reasonable force means the amount of force that a reasonable person in the same situation would believe is necessary to protect the property from imminent harm. [¶] When deciding whether the owner or possessor of real or personal property used reasonable force, consider all of the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with similar

***CALCRIM No. 3475***

Initially, Bravo argues the trial court erred by instructing the jury with CALCRIM No. 3475. Bravo correctly points out that this instruction is primarily designed to be used when a possessor of real property is charged with a crime resulting from the use of excessive force against a trespasser. (*People v. Johnson* (2009) 180 Cal.App.4th 702, 709.) Since Kwon was not charged with a crime, the trial court would have erred had it instructed the jury with an unmodified version of the instruction.

The instruction, however, was modified to fit the unique facts of this case. It informed the jury that Kwon had the right to use reasonable force to protect his property from imminent harm. Since the jury reasonably could have found that Kwon struck Bravo with a baseball bat after Bravo pulled a gun on him and demanded money, this principle was applicable to the facts of the case and was a correct statement of the law.

Next, Bravo argues this instruction should not have been given because Bravo was not a trespasser. According to Bravo, since the market was open to the public, and he was a member of the public, he had permission to be on the property. Bravo also points out that there was no evidence that Kwon ordered Bravo to leave the market.

While Bravo may not have been a trespasser when he entered the market, the jury reasonably could have found that once Bravo pulled a gun on Kwon, Bravo's status changed from that of permissive user to that of a trespasser. Moreover, while there was no evidence that Kwon verbally asked Bravo to leave the market, the jury reasonably could have found that when Kwon grabbed a baseball bat and approached Bravo in a threatening manner, any reasonable person would have understood the action to be an order to leave the property. Since Bravo was hit with the baseball bat, the jury reasonably could have inferred that Bravo refused the order to leave and his status

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knowledge would have believed. If the owner or possessor's beliefs were reasonable, the danger does not need to have actually existed."

changed to that of a trespasser. Therefore, the evidence before the jury, and the reasonable inferences that could be drawn therefrom, provided adequate support for the instruction.

Finally, Bravo argues the trial court erred when it omitted the final paragraph to the instruction. The omitted paragraph would have informed the jury that it is the People's burden to prove beyond a reasonable doubt that the defendant used unreasonable force. As Bravo points out in his initial argument, the instruction primarily is designed to be used when a land owner is charged with using unreasonable force in ejecting a trespasser from his property. In that situation, it is the People's burden to show the land owner used unreasonable force. But, as Bravo also points out in his initial argument, Bravo was not charged with using unreasonable force in ejecting a trespasser. Therefore, the omitted portion of the instruction was inapplicable to this case.

***CALCRIM No. 3476***

Bravo also argues the trial court erred in instructing the jury that Kwon had the right to use reasonable force to defend his real or personal property pursuant to a modified version of CALCRIM No. 3476. This instruction is similar to the property owner's right to eject a trespasser discussed in the preceding section. As read to the jury, the instruction informed the jury that Kwon had the right to use reasonable force to protect his property, defined "reasonable force" for the jury, and informed the jury to consider all of the circumstances when deciding if Kwon used reasonable force.

As with the preceding instruction, Bravo argues the instruction should not have been given because it is primarily intended for use when the property owner is charged with using unreasonable force in protecting his property. Once again, we agree that since Bravo was not charged with a crime resulting from the use of unreasonable force in protecting his property, the trial court would have erred if it had read an unmodified version of the instruction to the jury. The instruction, however, was modified to meet the unique facts of this case. As modified, the instruction was a correct statement of the law,

and it assisted the jury in understanding the general legal principles applicable to the testimony. Moreover, the trial court correctly omitted the portion of the instruction that informed the jury that it was the People's burden to prove beyond a reasonable doubt that Kwon used unreasonable force. Since Kwon was not the defendant in this case, this omission was proper.

***CALCRIM No. 3471***

Bravo next objects to the modifications made to CALCRIM No. 3471, which discussed the right to self-defense when the defendant engages in mutual combat or the defendant is the initial aggressor. The trial court omitted from this instruction two paragraphs. The first omitted paragraph defined the term "mutual combat" as a fight that begins or continues through mutual consent or agreement.

The trial court did not err in omitting this paragraph. If the jury considered the issue of self-defense, the only way it could have arrived at the issue was if it concluded that Kwon initiated an unprovoked attack on Bravo, or if Bravo initiated the conflict by pulling the gun on Kwon or demanding money from Kwon. There was no evidence to support the theory that Bravo and Kwon confronted each other by mutual consent, nor does there exist any reasonable inference to support such a theory. Accordingly, omission of the definition of "mutual combat" was proper. The error, if any existed, may have been to include the term "mutual combat" in the instruction read to the jury.

The second omitted portion of CALCRIM No. 3471 would have informed the jury that if Bravo started the fight using nondeadly force and Kwon responded with sudden, deadly force, then Bravo had the right to defend himself with deadly force. We are unable to conceive of any factual situation based on the testimony and the reasonable inferences drawn therefrom that would support this portion of the instruction.

Defense counsel suggested two possible theories for the self-defense instruction. One was that Bravo merely asked for money from Kwon without displaying his gun and Kwon responded with his baseball bat. The second possibility was that Kwon attacked

Bravo without provocation. We cannot think of any other possibility where self-defense would be a viable defense. In both of these scenarios, Bravo would not be the initial aggressor, nor would he have engaged in mutual combat. To the extent that Bravo may be arguing that he somehow was the initial aggressor without displaying the gun, there is nothing in the record to support such an assertion.

Instead, the justification for this instruction was the argument that while Bravo initiated the confrontation by threatening Kwon with a gun, Bravo attempted to stop fighting when Kwon grabbed the baseball bat. Under this theory, which had some factual support, Bravo could have argued that although he was the initial aggressor, he had the right to use deadly force to defend himself once he attempted to stop the fight. As we shall explain, such an argument is without legal support. Therefore, the trial court may have erred in instructing the jury with CALCRIM No. 3471, although Bravo does not make this argument.

#### ***Bravo's Special Instruction***

Finally, Bravo argues the trial court erred when it rejected a special instruction he submitted. This instruction stated, "If the aggressor attempts to break off the fight and communicates this to the victim, but the victim continues to attack, the aggressor may use self-defense against the victim to the same extent as if he or she had not been the initial aggressor." This instruction is based on the same legal principle as CALCRIM No. 3471, with which the jury was instructed. It does not inform the jury of any legal principle not covered by that instruction. Therefore, even if it was a correct statement of the law, it was duplicative of CALCRIM No. 3471 and properly refused by the trial court. (*People v. Catlin* (2001) 26 Cal.4th 81, 152.)

#### ***Additional Grounds for Affirming the Judgment***

While we have concluded that the trial court did not err in instructing the jury, there are several additional reasons for affirming the judgment. First, defense counsel did not object to CALCRIM Nos. 3471, 3475, and 3476. Therefore, Bravo has forfeited the

claim that the trial court erred in including these instructions in the charge to the jury.<sup>8</sup> (*People v. Hart* (1999) 20 Cal.4th 546, 622.)

Bravo argues that an objection was unnecessary because the instructions deprived him of a substantial right. (§ 1259.) Other than making this blanket assertion, Bravo does not attempt to explain what substantial right was infringed upon, nor does he cite any cases that support his assertion. We need not consider a point that is not adequately supported by argument or authority.<sup>9</sup> (*People v. Stanley* (1995) 10 Cal.4th 764, 793; *Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785.)

We also conclude that even if the trial court had erred, Bravo cannot establish any prejudice as a result of the instructions for three reasons.

First, the jury found Bravo guilty of felony murder and found that he committed the murder in the course of committing a robbery and a burglary. These findings precluded the jury from ever reaching the issue of self-defense because *self-defense is not available as a defense in a prosecution for felony murder*. (*Loustaunau, supra*, 181 Cal.App.3d at p. 170.) Since the jury concluded that Bravo committed felony murder, it was precluded from reaching the question of whether Bravo acted in self-defense. Accordingly, any possible error in the instructions was irrelevant. (*People v. Sedeno* (1974) 10 Cal.3d 703, 721, overruled on other grounds in *People v. Blakeley* (2000) 23 Cal.4th 82, 88-89; *Loustaunau*, at p. 172.)

Second, the evidence against Bravo was overwhelming. A superficial review of the evidence is all that is necessary to establish this point. Bravo admitted committing three similar robberies at different convenience stores within the preceding two-week

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<sup>8</sup>We similarly reject any claims that defense counsel was ineffective for failing to object to these instructions as we find the instructions were not erroneous, thus making any objection futile. (*People v. Price* (1991) 1 Cal.4th 324, 387.)

<sup>9</sup>This principle also applies to those arguments that we have identified in this opinion but were not raised by Bravo in his brief.

period. Each of those robberies was recorded on surveillance equipment, and the recordings were played for the jury. In one of the robberies, Bravo used the identical modus operandi as in the Kwon murder. Bravo's DNA matched the DNA from the blood found outside Kwon's convenience store. Bravo confessed that he shot Kwon, and the confession was played for the jury. Bravo testified at trial that he did not shoot Kwon and fabricated a story to explain the presence of his blood outside the store that contradicted many unrelated portions of his confession.<sup>10</sup> Bravo's fabrication likely lent credence to his confession. The police found the same type of ammunition that was used in the murder at Bravo's residence. Bravo's vehicle was identified by two witnesses as the vehicle used by the gunman because of a distinctive decal on the gas tank filler cover.

In other words, the perpetrator used the identical modus operandi as Bravo, drove Bravo's vehicle, used the same type of gun as Bravo, and left Bravo's blood at the scene of the murder. It is not surprising the jury concluded that Bravo was the perpetrator since that was the only logical conclusion that could be reached from the evidence.

Finally, defense counsel never suggested, or even mentioned, in closing argument that Bravo acted in self-defense when he shot Kwon. It is difficult to discern how Bravo could have suffered any prejudice from instructions on an issue that was never placed before the jury, especially considering that the jury also was instructed that some instructions might not apply if certain factual findings were made. (CALCRIM No. 200.)

For each of these reasons, Bravo cannot establish that he suffered any prejudice as a result of these instructions under any standard of review.

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<sup>10</sup>For example, Bravo testified that he cut his head at work, but in his confession he stated he robbed the other stores because he could not find any work.

**DISPOSITION**

The judgment is affirmed.

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CORNELL, J.

WE CONCUR:

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WISEMAN, Acting P.J.

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FRANSON, J.