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

THE PEOPLE,

Plaintiff and Respondent,

v.

FELIX YBARRA CHAVEZ,

Defendant and Appellant.

F068720

(Super. Ct. No. BF147997A)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. John R. Brownlee, Judge.

Victoria H. Stafford, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Cornell, Acting P.J., Detjen, J. and Peña, J.

Felix Ybarra Chavez pled no contest to carjacking (Pen. Code, § 215, subd. (a)),¹ evading a police officer (Veh. Code, § 2800.2), and attempted possession of a firearm by a felon (§§ 664, 29800, subd. (a)(1)). In addition he admitted a firearm enhancement and two prior prison term enhancements. (§§ 12022.53, subd. (b), 667.5, subd. (b).) He was sentenced to the agreed-upon term of 18 years. He appealed, asserting he did not knowingly and intelligently waive his rights, a claim belied by the record. We affirm the judgment.

FACTUAL AND PROCEDURAL SUMMARY

At the preliminary hearing, the victim, Qaisul Abhar, testified he was driving home when he stopped for a red stop light. An individual was on the sidewalk talking on his cellular phone. This individual, whom Abhar identified as Chavez, pointed a gun at Abhar, entered the vehicle, and then instructed Abhar to drive to a remote area. Abhar was then pulled out of the vehicle and beaten by Chavez and a second man. The two assailants took Abhar's money and clothes and then left in Abhar's vehicle.

Chavez was seen a short while later by Bakersfield police officers driving Abhar's vehicle. After leading the officers on a high-speed chase that at times exceeded 100 miles per hour, Chavez lost control of the vehicle and came to a stop. He ran from the vehicle but was found a short while later and confronted by the police officers. Chavez resisted arrest but eventually was taken into custody.

The information charged Chavez with carjacking (§ 215, subd. (a)), kidnapping during the commission of a carjacking (§ 209.5, subd. (a)), evading a police officer (Veh. Code, § 2800.2), possession of a firearm by a felon (§ 29800, subd. (a)(1)), and resisting arrest (§ 148, subd. (a)(1)). The information also alleged a firearm enhancement

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

(§ 12022.53, subd. (b)) and two prior convictions resulting in a prison sentence within the meaning of section 667.5, subdivision (b).

When the matter was called for trial, the trial court inquired whether the matter could be settled short of a trial. Chavez stated he would consider a plea deal for a total term of 15 years. The prosecution then offered Chavez an agreed-upon term of 18 years, which would result in a total time served of 15 years three months after good time/work time credits. The trial court reminded Chavez he was facing a life term on the kidnapping count. Chavez inquired if the plea would result in a conviction that constituted a strike under the three strikes law. The trial court confirmed that the conviction would constitute a strike. Chavez then indicated he would accept the offer.

A break in the proceedings ensued wherein Chavez met with defense counsel to complete a plea agreement form. This form informed Chavez he would be pleading guilty or no contest to carjacking (§ 215, subd. (a)), evading a police officer (Veh. Code, § 2800.2), and attempted possession of a firearm by a felon (§§ 664, 29800). In addition, he would admit to the firearm enhancement (§ 12022.53, subd. (b)) and the two prison priors (§ 667.5, subd. (b)). The form also stated the total term that would be imposed would be 18 years. Chavez initialed the form to indicate (1) he was entering the plea freely and voluntarily, (2) he understood the charges against him and the possible defenses, and (3) he had had enough time to discuss with his attorney the case against him, as well as the possible consequences of accepting the plea bargain. The form also advised Chavez of the consequences of the guilty (or no contest) plea, as well as his constitutional rights, including the right to a jury trial, the right to an attorney, the right to testify, the right to present a defense, the right to confront the witnesses against him, and his Fifth Amendment right to remain silent. Chavez placed his initials beside each of the consequences and rights in the form. The form then asked Chavez to waive each of these rights, which Chavez did by placing his initials next to each right. Finally the form confirmed that Chavez freely and voluntarily pled to the listed charges and

enhancements. Chavez again initialed these statements indicating his agreement. The form concluded with the statement “I declare under penalty of perjury that I have read, understood, and initialed each item above, and that everything on the form is true and correct.” Chavez dated and signed the form under this statement.

The plea agreement form included an attorney statement that confirmed the attorney had (1) reviewed the form with Chavez, (2) explained to Chavez his rights, (3) answered all of Chavez’s questions, (4) discussed the charges and enhancement allegations with Chavez, (5) discussed possible defenses to the charges, and (6) explained the consequences of the plea agreement. The statement included an affirmation that Chavez understood each of these things. The attorney statement was signed by defense counsel.

When the trial court recalled the matter, it first confirmed the terms of the proposed plea agreement included the charges to which Chavez would plead, as well as the agreed upon sentence of 18 years in prison. Chavez stated he (1) understood the agreement, (2) had discussed the matter with defense counsel, (3) understood the charges and enhancements to which he would be pleading, (4) understood he would have a prior conviction that constituted a strike as a result of this plea, and (5) understood he would be receiving a sentence of 18 years with a release date in 15 years three months after good time/work time credits at 85 percent. Chavez also confirmed it was his initials and signature on the plea agreement form, and he had had the opportunity to discuss the matter with his attorney.

Finally, Chavez stated he (1) understood that by signing the form he was waiving his rights so he could take advantage of the plea bargain, (2) had not accepted the plea bargain because of a threat, and (3) had not received any promises other than what had been discussed. The prosecutor then took Chavez’s no contest plea to each count and his admission to each enhancement as agreed upon by the parties. The trial court accepted the plea and found Chavez had knowingly, voluntarily and intelligently waived his rights.

Chavez was sentenced to the agreed-upon term. Defense counsel also was able to have another pending case dismissed as a result of this plea. Chavez did not express any desire to withdraw his plea or any unhappiness with the plea agreement.

DISCUSSION

Approximately two months after he was sentenced, Chavez filed a notice of appeal. His certificate of probable cause states, “Defendant contends that he did not understand what he pleaded to, that he entered the plea involuntarily and unintelligently.” Appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 asserting she failed to identify any arguable issues in this case. By letter dated April 15, 2014, we invited Chavez to submit additional briefing. To date he has not done so.

We have reviewed the entire record in this matter. The record, which we have cited to at length above, belies Chavez’s claim. The trial court carefully explained the plea bargain to which Chavez agreed, the sentence that would be imposed, and the rights that Chavez was giving up to accept the plea bargain. Defense counsel affirmed he had spoken to Chavez about the case and the plea bargain. Chavez affirmed he understood the plea bargain and had had ample opportunity to discuss the matter with defense counsel. The trial court answered several questions posed by Chavez, including a question about whether he would have a strike conviction as a result of the plea. Chavez did not indicate he had any further questions for the trial court. Based on these facts, we can discern no grounds for withdrawal of the plea. Nor did our review of the record identify any other possible issue in this appeal.

DISPOSITION

The judgment is affirmed.