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

THE PEOPLE,

Plaintiff and Respondent,

v.

GARRY LEE DAMON,

Defendant and Appellant.

H036976

(Santa Clara County

Super. Ct. No. CC957276)

Defendant Garry Lee Damon appeals from a judgment of conviction entered after he pleaded guilty to one count of second degree robbery (Pen. Code, §§ 211, 212.5, subd. (c)). He also admitted allegations that he had suffered seven prior strike convictions (Pen. Code, §§ 667, subds. (b)-(i), 1170.12) and had served three prior prison terms (Pen. Code, § 667.5, subd. (b)). Following the denial of his *Romero*¹ motion, the trial court sentenced defendant to 25 years to life plus a determinate term of 15 years. Defendant has filed a timely notice of appeal.

I. Statement of Facts

On October 5, 2009, defendant entered a bank, handed the teller a note demanding \$100 bills, and told her that he wanted “100’s only.” The teller gave him four \$100 bills.

¹ *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497.

After defendant took the money, he left the bank. The police responded to the bank alarm and took a copy of the surveillance video from the bank. They then prepared a photo of the robber and distributed it to various law enforcement agencies.

The following day, defendant's parole officer saw the photo and recognized him. Defendant was being monitored by a GPS device, and the device established that defendant was in the bank when the robbery occurred. The police also used the device to locate and arrest defendant. After he was arrested, defendant admitted that he robbed the bank. He told the officers that he was bipolar and that voices in his head had told him to rob the bank.

II. *Romero* Motion

Defendant filed a *Romero* motion in which he sought dismissal of all or at least six of his prior strike convictions. Six of the strike convictions were for bank robbery and one was for assault with intent to commit rape. His first strike offense was committed in 1985, and his second in 1990. The next five occurred during an eight-day period in 1996, for which he received a sentence of 16 years. The motion summarized defendant's serious mental health issues and included documentary support. Defendant had been diagnosed at various times with paranoid schizophrenia, schizoaffective disorder, cognitive disorder not otherwise specified, borderline intellectual functioning, organic brain disorder, psychotic disorder not otherwise specified, and cocaine dependence. Defense counsel argued that defendant fell outside the spirit of the "Three Strikes" law due to his severe cognitive limitations and mental illness. The prosecutor opposed the motion, emphasizing defendant's criminal history of 10 prior felonies and eight misdemeanors.

The trial court noted that *Romero* relief had been granted on two prior occasions and defendant continued to commit strike offenses. The trial court also stressed that

defendant committed the present offense, which was a serious violent felony, while on parole. Based on these factors, the trial court denied the motion.

III. Discussion

Appointed appellate counsel has filed an opening brief which states the case and the facts but raises no issues. Defendant was notified of his right to submit written argument on his own behalf but has failed to avail himself of the opportunity. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we have reviewed the entire record and have concluded that there are no arguable issues on appeal.

IV. Disposition

The judgment is affirmed.

Mihara, J.

WE CONCUR:

Bamattre-Manoukian, Acting P. J.

Duffy, J.*

* Retired Associate Justice of the Court of Appeal, Sixth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.