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

THE PEOPLE,

Plaintiff and Respondent,

v.

ALEX ADOLFO SANDOVAL
MARTINEZ,

Defendant and Appellant.

H038787

(Monterey County
Super. Ct. Nos. SS112248B,
SS120012A, SS110191A)

I. INTRODUCTION

This matter concerns three criminal cases. In case No. SSC110191A, defendant Alex Adolfo Sandoval Martinez pleaded no contest to one felony, evading an officer with willful disregard of the safety of persons or property (Veh. Code, § 2800.2, subd. (a)) and five misdemeanors. In case No. SS112248B, defendant pleaded no contest to residential burglary (Pen. Code, § 459)¹ and admitted the gang allegation (§ 186.22, subd. (b)(1)(B)). In case No. SS120012A, defendant pleaded no contest to second degree robbery (§ 211) and admitted the allegation that he was released from custody on his own recognizance or bail at the time of the offense (§ 12022.1). In accordance with the plea agreement resolving all three cases, defendant was sentenced to a total term of 10 years eight months.

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

Defendant's motion to deem his notice of appeal as timely filed was granted and we appointed counsel to represent him in this court. Appointed counsel has filed an opening brief that states the case and facts but raises no issue. We notified defendant of his right to submit written argument on his own behalf within 30 days. The 30-day period has elapsed and we have received no response from defendant.

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 and *People v. Kelly* (2006) 40 Cal.4th 106, we have reviewed the entire record. Following the California Supreme Court's direction in *People v. Kelly, supra*, at page 110, we provide "a brief description of the facts and procedural history of the case, the crimes of which the defendant was convicted, and the punishment imposed."

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Case No. SSC110191A

According to the probation report, on August 31, 2011, Soledad Police Department officers responded to a report of vandalism involving the driver of a silver van slashing the tires of an automobile. Police officers located the silver van and attempted a traffic stop. The driver of the silver van refused to pull over and a vehicle pursuit through residential areas ensued. During the vehicle pursuit, the silver van brushed a police vehicle, causing moderate damage. The pursuit ended when the silver van collided with two cars and came to a stop. After the collision, the occupants of the silver van fled on foot. Minutes later, defendant was discovered in a nearby backyard and apprehended by police. Defendant gave a police officer a false name, but he was later identified as the driver of the silver van by one of the other suspects.

The complaint filed in September 2011 charged defendant with two felonies, evading an officer with willful disregard of the safety of persons or property (Veh. Code, § 2800.2, subd. (a); count 1) and hit and run resulting in injury (Veh. Code, § 20001, subd. (a); count 2). The complaint also charged defendant with four misdemeanors, including vandalism (§ 594, subd. (b)(2)(A); count 3), hit and run resulting in property

damage (Veh. Code, § 20002, subd. (a); count 4), resisting a police officer (§ 148, subd. (a)(1); count 5), and giving false information to a police officer (§148.9, subd. (a); count 6).

B. Case No. SS112248B

The testimony given at the preliminary hearing held in March 2012 indicates that on November 30, 2011, City of Salinas police officers responded to a report of robbery. When contacted, the reporting party stated that two men were looking into houses and robbing them. As the police officers were driving around the area, they saw two men running away. At some point, police officers in the area detained a juvenile and contacted a young woman, who said that she had arrived there with defendant and the juvenile in a white van. She also said that defendant was a Norteño, she and the juvenile hung out with Norteño gang members, and the three of them had gotten together that day to smoke marijuana and burglarize houses. The juvenile was shown a photograph of defendant. He acknowledged that the photograph depicted the person who was with him when they ran from the police.

When the white van was located and searched, police officers found a wallet with defendant's identification, baseball caps with an emblem depicting the letter "M," and a potato chip bag containing marijuana. The police officer who testified as a gang expert gave his opinion that defendant was an Salinas East Market Street Norteño gang member, based on his possession of gang indicia and his prior criminal association with Norteño gang members.

Police officers entered a house near where the white van was located and found that the sliding screen at the back of the house had been cut, the screen for the kitchen window had been removed, and the kitchen window was open. The officers also saw footprints on the floor and open drawers and cupboards. The victim reported that the house was not in that condition when she left for work.

The amended information filed in March 2012 charged defendant with conspiracy to commit residential burglary (§ 182, subd. (a)(1); count 1) and residential burglary (§ 459; count 2). The amended information further alleged that defendant had committed the crimes for the benefit of a criminal street gang (§ 186.22, subd. (b)(1)(B)) and while he was released from custody on his own recognizance or bail (§ 12022.1).

C. Case No. SS120012A

According to the preliminary hearing testimony given in March 2012 a City of Salinas police officer responded to a call about a robbery on December 24, 2011. The victim reported that as he was crossing an intersection someone grabbed him by the back of his sweatshirt. When the victim turned around, the person who had grabbed his sweatshirt told him “he had five seconds to give up his money.” Because the person’s hand was inside his front sweatshirt pocket the victim thought he might be armed. After the person punched the victim in the face, he reached into the victim’s back jean pocket and removed a wallet, which contained \$200.

The police officer then took the victim to an “in-field show-up.” The officer told the victim that police had a detained a person who might or might not be involved in the incident. At the in-field show-up, the victim positively identified defendant as the person who had robbed him.

The information filed in March 2012 charged defendant with second degree robbery (§ 211; count 1) and alleged that he had committed the offense while released from custody on his own recognizance or on bail (§ 12022.1).

D. Plea Agreements and Sentencing

On March 9, 2012, defendant entered into a plea agreement in case No. SSC110191A. After the prosecutor amended count 2 to reduce the charge to a misdemeanor violation of Vehicle Code section 20002, defendant pleaded no contest to all charges in the complaint. Defendant also waived time for sentencing.

On May 25, 2012, defendant entered into plea agreements in the other two cases. In case No. SS112248B, defendant pleaded no contest to residential burglary and admitted the allegation that he had committed the offense for the benefit of a criminal street gang. In case No. SS120012A, defendant pleaded no contest to robbery and admitted that he had committed the offense while released from custody on his own recognizance or on bail.

The plea agreements resolved all three cases in exchange for a stipulated total sentence of 10 years eight months. Defendant also agreed to a waiver of rights in all three cases, which stated: "I hereby waive and give up all right regarding state and federal writs and appeals. This includes, but is not limited to, the right to appeal my conviction, the judgment, and any other orders previously issued by this court. I agree not to file any collateral attacks on my conviction or sentence at any time in the future. I further agree not to ask the court to withdraw my plea for any reason after it is entered."

At the sentencing hearing held in July 2012 the trial court imposed an aggregate sentence of 10 years eight months in accordance with the plea agreements, structured as follows. In case No. SS112248B, the court imposed the lower term of two years on the burglary conviction plus five years for the gang enhancement. In case No. SS120012A, the court imposed a consecutive term of one year (one-third the middle term) on the robbery conviction plus a two-year enhancement for committing the offense while released on bail. In case No. SSC110191A, the court imposed a consecutive term of eight months (one-third the middle term) on the conviction for evading an officer with willful disregard of the safety of persons or property and gave credit for time served on the remaining counts.

The trial court granted defendant a total of 218 days of presentence custody credit, consisting of 190 actual days plus 28 days of conduct credit. Additionally, the court ordered defendant to pay victim restitution (§ 1202.4, subd. (f)) in the amounts

recommended in the probation report, as well as restitution fines (§§ 1202.4, subd. (b), 1202.45) and various other fines and fees.

E. Appeal

Having carefully reviewed the entire record, we conclude that there are no arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d at pp. 441-443.)

III. DISPOSITION

The judgment is affirmed.

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

ELIA, ACTING P.J.

MÁRQUEZ, J.