

IN THE SUPREME COURT OF CALIFORNIA

THE PEOPLE,)	
)	
Plaintiff and Respondent,)	
)	S175851
v.)	
)	
JEAN PIERRE RICES,)	
)	
Defendant and Appellant.)	San Diego County
)	Super. Ct. No. SCE266581
_____)	

Defendant, Jean Pierre Rices, and codefendant, Anthony Miller, were charged with crimes arising out of a liquor store robbery during which defendant shot and killed two people. The prosecutor sought the death penalty against defendant but not Miller. Defendant pleaded guilty to the first degree murders of Heather Mattia and Firas Eiso under the special circumstances of multiple murder and murder in the course of a robbery. He admitted enhancement allegations that he personally used a firearm during the commission of the murders and previously suffered certain felony convictions. Miller's guilt trial and defendant's penalty trial were held simultaneously before separate juries. Defendant's jury returned a verdict of death. The court denied the automatic motion to modify the verdict and imposed a judgment of death. This appeal is automatic. We affirm the judgment.

I. THE FACTS

A. Overview

In March 2006, defendant and Miller robbed a liquor store, ordering the two victims to lie on the floor. As Miller was leaving the store, defendant fatally shot both victims in the back of the head. Much of what occurred during the robbery, although not the actual shooting, was captured on videotape that was played to the jury. The prosecution also presented evidence of defendant's other criminal conduct involving force or violence.

Defendant presented substantial evidence in mitigation, largely focusing on his unfortunate childhood and how it contributed to his criminal behavior.

B. The Liquor Store Robbery

On March 1, 2006, shortly after 11:00 p.m., Heather Mattia, the co-owner of the Granada Liquor store in El Cajon, and her employee, Firas Eiso, walked out of the store after closing it for the night. Defendant and Miller confronted them outside and forced them back into the store. Miller wore gloves and a mask; defendant wore gloves but no mask.

Inside the store, Mattia and Eiso were ordered to lie on the floor and forced to crawl in front of the counter. Miller, holding a bag, went behind the counter. A short time later, Miller left the store. As Miller was leaving, defendant shot both victims in the back of the head while they were lying on the floor. Defendant then left the store, gun in hand, joined Miller, and they drove away. Just under four minutes elapsed from the time the victims were forced back into the store until defendant left the store.

The bodies, lying facedown side by side in pools of blood, were soon discovered. Police found two nine-millimeter bullet casings nearby. A bullet was found under Eiso's body. A second bullet was found in a stack of beverage cans,

where it had come to rest after ricocheting around. The drawers to some cash registers had been pulled out.

Both Mattia and Eiso died of a single gunshot wound through the head. Mattia also suffered grazing wounds to her forearm, finger, and hand, probably caused by the same bullet after it passed through her head. The condition of Mattia's lungs indicated she was still breathing for about 15-20 minutes after she was shot. Her head wound was such that the body might have twitched involuntarily until she died. The autopsy revealed no indications of a struggle.

The parties stipulated that if called as witnesses, Rodney Hodges and Dwayne Hooks — defendant's cohorts in later crimes — as well as Debbie Mays, would testify that, on separate occasions, defendant told each of them that he had shot two people in the head during the liquor store robbery, and the legs of the female victim twitched after he shot her.

Miller testified on his own behalf. Most, although not all, of his testimony was in front of defendant's penalty jury as well as Miller's guilt jury. On the night of the robbery, he rode to the liquor store with defendant and Nichele Hopson, who drove. Miller was just going along for the ride and thought they were going to buy something to drink. When he and defendant got out of the car, defendant pulled out a gun, tossed Miller a bag, and told him they were going to do a robbery. Miller was "scared out of [his] wits." Because defendant had a firearm, Miller felt he had no choice but to do as he was directed. Inside the bag were gloves and a mask, which defendant told him to put on. Defendant then told Miller to follow him into the store.

When Miller stepped into the store, he saw Mattia and Eiso lying on the floor. Defendant was still holding the gun. Following defendant's orders, Miller took money from the cash register, which he put into the bag. The victims were cooperating and saying things like, "Just take the money, leave me alone." Mattia

told them where the money was. After Miller took the money, defendant told him to leave the store, which he did. Miller did not hear any shots, but Hopson told him she heard some. Then defendant got into the car and told Hopson to drive away.

The prosecution cross-examined Miller about his prior statements — in which he confessed to his involvement in the crime and did not implicate defendant in the manner he did at trial — and impeached him with a friendly letter he wrote to defendant in jail after his arrest. Miller also acknowledged that he had previously told the police he heard Mattia say, “Please don’t kill me. I just want to be with my family”; and he heard Eiso begging for his life. Miller testified he lied to the police and did not actually hear these statements. He also testified that defendant never made threats to force him to participate in the robbery.

C. Defendant’s Other Crimes

The prosecution presented evidence of defendant’s felony convictions and other criminal conduct.

On February 10, 1999, defendant and another man robbed a Taco Bell restaurant in San Diego, netting about \$150. The manager testified she saw the butt of a gun in defendant’s pocket. Defendant admitted his involvement in the robbery.

On March 7, 1999, defendant and two others approached Paul Hillard while he was sitting in his car. Wielding a gun, defendant ordered Hillard to get out of the car and lie on the ground. One of the three took \$304 from Hillard, and then they drove away in Hillard’s car. Police found defendant a short time later sitting in the front passenger seat of the car. A gun was recovered from that seat, and defendant admitted he was the one holding the gun during the robbery.

On July 28, 2006, defendant and Rodney Hodges unsuccessfully attempted to rob a Bank of America branch in El Cajon. During the attempt, defendant fired two shots with a handgun.

On July 31, 2006, defendant, armed with a handgun, and Dwayne Hooks robbed a Washington Mutual Bank branch in Lakeside. Defendant pointed the handgun close to a teller's head, ordered her to unlock a cash drawer, and then ordered her to lie on the floor. During the robbery, defendant dropped some keys that were later identified as those given to him before the robbery. Defendant and Hooks left the bank with about \$25,000 in cash. Unbeknownst to them, however, the cash contained a "dye pack," which activates when it is taken through the sensors on the bank doors. While defendant and Hooks were driving away, the pack exploded, sending red dye and tear gas into the car's interior. Defendant's saliva was later found mixed with the dye on the surface of the getaway car.

On January 12, 2008, while in jail, defendant and other inmates assaulted another inmate. On May 29, 2008, defendant and another inmate assaulted a different inmate, who suffered "minor injuries" as a result.

On August 8, 2008, defendant assaulted Deputy Sheriff James Clements, slicing him with a razor blade. Clements needed ten stitches and four staples to close head wounds, and suffered other lacerations. When asked later whether he was injured, defendant said he was not and added, "But I blasted your cop."

On August 11, 2008, correctional officers found a piece of metal that "was started to be sharpened" in the waistband of defendant's pants. The next day, while being transported for medical treatment, defendant threatened jail deputies, including threats of "gassing" — or "throwing urine or feces on" — correctional personnel.

The parties stipulated that defendant suffered the following felony convictions: a 1999 conviction for robbing Hillard while armed with a firearm; a

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