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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMEN MAURICE BODDIE,

Defendant and Appellant.

A133133

(San Francisco City & County  
Super. Ct. No. 00213882)

After entering a guilty plea to one count of corporal injury on a spouse, defendant Jamen Boddie was placed on three years of probation with conditions. Slightly over six months later a petition to revoke his probation was filed based on his violation of a stay-away order from the mother of one of his children in an ongoing family court matter. Following a contested revocation hearing, the court found defendant in violation of probation, ordered his probation revoked and imposed a three-year state prison sentence. Defendant's counsel has asked this court, pursuant to *People v. Wende* (1979) 25 Cal.3d 436, to conduct an independent review of the record to determine whether it contains any arguable issues. Defendant was notified of his right to file a supplemental brief, but has not done so. Upon independent review of the record, we conclude no arguable issues are presented for review and affirm the judgment.

## FACTUAL<sup>1</sup> AND PROCEDURAL BACKGROUND

On September 6, 2010, in the early morning hours, the victim, Sabrina B., and her friend returned from an evening at a night club. Upon their return, defendant became angry, grabbed Sabrina by the neck, and pushed her across the hallway to the ground. As Sabrina lay on the ground, defendant punched her on the right side of the face with a closed fist. Once she got to her feet, defendant “pushed her against two walls” and then left the apartment.

A complaint was filed on September 9, 2010, charging defendant with corporal injury on a spouse (Pen. Code,<sup>2</sup> § 273.5, subd. (a); count I), assault with force likely to cause great bodily injury (§ 245, subd. (a)(1); count II), false imprisonment (§ 236; count III), and disobeying domestic relations court order (§ 273.6, subd. (a); count IV).

On November 4, 2010, defendant pleaded guilty to count I, corporal injury on a spouse. Thereafter, imposition of sentence was suspended and defendant was placed on three years’ probation with various terms and conditions including a six-month county jail sentence and a stay-away from the victim, Sabrina B.

A motion to revoke probation was filed on May 26, 2011, based on the contents of an attached San Francisco police report and a “forthcoming supplemental probation report.” According to the supplemental report, on May 19, 2011, defendant violated the terms of an order issued in an ongoing family law matter to stay away from April W., the mother of one of his children.

Probation was administratively revoked on May 26, 2011. A criminal protective order was issued that day naming April W. and her daughter, J.B., as the protected parties. A contested probation revocation hearing was held on July 27, 2011 and August 10, 2011.

April W. testified on May 19, 2011, she went to her grandmother’s house to pick up J.B. As April and J.B. were at the door of the residence getting ready to leave, J.B.

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<sup>1</sup> The facts of the original offense are taken from the probation report.

<sup>2</sup> All statutory references are to the Penal Code.

grabbed her mother's leg causing her to look up. April saw defendant 10 or 11 feet away approaching the door. She closed the door, went upstairs, and her grandmother (hereafter Grandmother) called the police. According to April, a restraining order had been previously issued against defendant for her and J.B.<sup>3</sup> When Grandmother was on the phone, April saw defendant standing across the street from the house. Defendant eventually moved his car after which April no longer saw him.

Grandmother testified on May 19 she observed defendant standing within five feet of her door. She closed the door and called the police.

Prior to the defense case, the court stated it was going to confine its findings to "what I've heard so far, which is from [Grandmother] and [April W]." Nonetheless, defense counsel proceeded to call Sabrina B. in the hope of having the court modify probation to delete the stay-away order precluding defendant from having contact with her. Counsel, however, excused Sabrina after the court admonished him that calling her to testify about a conversation between her and defendant since the imposition of the stay-away order would be "gross incompetence." The court again reiterated it was confining the hearing to the incident involving April W.

Defendant then testified he understood there was a stay-away order from April W. as a result of litigation in family court for the past three and a half years. He further indicated his daughter was taken away from him when he pleaded guilty to domestic violence. According to defendant, he was told by the family court to go back to criminal court to "get the judge to remove my daughter's name from the restraining order, that my daughter's name is on the restraining order with April [W.] here in criminal court."

On the date of the incident, he drove a friend to the gates of the Doublerock housing project after which he drove down Fitzgerald Street. At the corner of Fitzgerald and Ingalls, he spotted a white Lexus double-parked in the street between Grandmother's

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<sup>3</sup> Prior to the commencement of testimony, defendant's counsel, offered to stipulate defendant was "out in front of the house he was supposed to stay away from on the date in question here."

house and the house next-door. He believed the vehicle belonged to Bartholomew P. and “looked like the car that carries April and my daughter around.” When defendant saw the car, he thought it was an opportunity to serve April W. with the papers. So as not to violate the stay-away order, defendant drove six houses down the street to put him more than 100 feet away from Grandmother’s house. Defendant testified, “At that time I pulled over on the right-hand side of the street . . . I got out of my car to retrieve my manila envelope that was in my trunk, because I had called the police already.” While speaking with the police dispatcher, he stated he needed police assistance presumably to serve April W. with the contents of the envelope. When he observed April W. and J.B. go back into the house after spotting him, he drove around the corner to be further away. He waited 10 to 15 minutes for the police, but when they failed to arrive, he left.

After finding April W. and Grandmother to be credible witnesses, the court revoked defendant’s probation because he was “not amenable to probation supervision at this time.”

The court sentenced defendant to the midterm of three years in state prison for the original offense of corporal injury on a spouse. The court stated the crime involved great violence, and involved a high degree of cruelty, viciousness and callousness. The court also noted defendant had numerous prior convictions of increasing seriousness. In mitigation, defendant voluntarily acknowledged wrongdoing at an early stage of the proceedings.

Defendant filed a timely appeal on August 29, 2011.

## **DISCUSSION**

Defendant was represented by counsel throughout the probation revocation proceedings. Although defense counsel in an attempt to modify defendant’s probation, had Sabrina B. sworn in as a witness, once he was admonished by the court that the proceeding was limited to the incident involving April W., he wisely excused Sabrina and defendant suffered no prejudice. Otherwise, defendant’s counsel ably represented him throughout the revocation proceedings.

The sentence imposed was authorized by section 273.5, subdivision (a). The trial court’s decision to impose the midterm is neither “ ‘irrational [n]or arbitrary’ ” and therefore must be affirmed on appeal. (*People v. Superior Court (Alvarez)* (1997) 14 Cal.4th 968, 977–978 [absent showing that a trial court’s sentencing decision is irrational or arbitrary, the court is “ ‘presumed to have acted to achieve legitimate sentencing objectives, and its discretionary determination to impose a particular sentence will not be set aside on review’ ”].)

**DISPOSITION**

After a full review of the record, we find no arguable issues and affirm the judgment.

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Margulies, J.

We concur:

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Marchiano, P.J.

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Dondero, J.