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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID VICTOR ROBINS,

Defendant and Appellant.

B246898

(Los Angeles County Super. Ct.  
No. BA394890)

APPEAL from a judgment of the Superior Court of Los Angeles County, Monica Bachner, Judge. Affirmed.

Vanessa Place, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Defendant and appellant David Victor Robins was found guilty by jury of the following sexual offenses of an unconscious person: counts 1-3—sexual penetration (Pen. Code, § 289, subd. (d));<sup>1</sup> counts 4-6—oral copulation (§ 288a, subd. (f)); and counts 7-8—assault with intent to commit oral copulation or sexual penetration (§ 220, subd. (a)(1)). Defendant admitted suffering a prior conviction under the three strikes law (§§ 1170.12, subds. (a)-(d), 667, subds. (b)-(i)) as to all counts and a prior conviction under section 667, subdivision (a)(1), as to counts 7 and 8. The trial court sentenced defendant to a total of 65 years in state prison.

Defendant filed a timely notice of appeal. This court appointed counsel to represent defendant on appeal. On July 10, 2013, appointed counsel filed a brief raising no issues, asking this court to independently review the record for arguable appellate contentions under *People v. Wende* (1979) 25 Cal.3d 436. Defendant was advised of his right to file a supplemental brief within 30 days. No supplemental brief has been filed by defendant.

We have completed our independent review of the record. Viewed in the light most favorable to the judgment, the record contains substantial evidence that 19-year-old Gabriela H. went to Hollywood with friends on April 17, 2011. Gabriela, who had been drinking, quickly became separated from her friends and spent time walking around Hollywood. She eventually made contact with defendant. They drank together, Gabriela saw a white pill in her hand, and passed out. Later that evening, defendant was observed in an alley by various citizens, committing the charged sex offenses on Gabriela, who was not moving. When police arrived in the alley, defendant and the unconscious Gabriela were under a sleeping bag. Gabriela was unclothed from the waist down. Evidence of rape committed by defendant of a 17-year-old girl in 2001 was admitted under Evidence Code section 1108.

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<sup>1</sup> All statutory citations are to the Penal Code, unless otherwise indicated.

Our review of the record reveals no arguable contentions on appeal. The convictions on the various counts are supported by substantial evidence. There are no arguable evidentiary issues. The sentence imposed was within the range of that provided by law. The judgment is affirmed. (*Smith v. Robbins* (2000) 528 U.S. 259.)

KRIEGLER, J.

We concur:

TURNER, P. J.

KUMAR, J.\*

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\* Judge of the Los Angeles County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.