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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

THE PEOPLE,

Plaintiff and Respondent,

v.

SOU POO SAECHAO,

Defendant and Appellant.

C069238

(Super. Ct. No. 11F2060)

Defendant Sou Poo Saechao was charged with assault with a deadly weapon (count 1), making criminal threats (count 2), exhibiting a deadly weapon (count 3), and being under the influence of a controlled substance (count 4). Count 2 alleged that in the commission of the offense defendant personally used a deadly weapon. It was also alleged that defendant had two prior strike convictions and had served a prior prison term.

On August 11, 2011, pursuant to a plea agreement, defendant pled no contest to counts 1 and 2, admitted one prior strike conviction, and the service of a prior prison term in exchange

for a stipulated sentence of five years in prison and the dismissal of the remaining charges and enhancements.¹

On September 9, 2011, defendant was sentenced to the five-year term. The court imposed fines and fees as follows: \$1,000 restitution fines, court security fees of \$80, and a conviction assessment of \$60. The court credited defendant with 246 days of presentence custody credit, consisting of 164 days actually served plus 82 days for conduct.

Defendant timely filed a notice of appeal.

FACTUAL BASIS FOR PLEA

On March 30, 2011, defendant's sister-in-law, Kelsey, was awakened by cries of help from her father-in-law, who was 75 years old and was defendant's father. In the hallway, Kelsey saw defendant standing near her father-in-law holding a knife. Kelsey managed to get her father-in-law into a bathroom where she locked the door and called 911. Her father-in-law told her that defendant had held a knife to his throat and threatened to kill him if he did not give him the car keys.

Officers who responded to the call discovered defendant, unarmed, outside the residence. Defendant admitted smoking methamphetamine and going into his father's room with a knife with which he intended to scare his father into giving him the car keys.

¹ Defendant's admission of the prior strike conviction precludes him from receiving the increased rate for earning conduct credits.

DISCUSSION

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests that this court review the record and determine whether it reflects any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no communication from defendant.

We have reviewed the record in its entirety. We find no arguable error that might have resulted in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

ROBIE, J.

We concur:

RAYE, P. J.

MURRAY, J.