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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**THIRD APPELLATE DISTRICT**

**(Shasta)**

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THE PEOPLE,

Plaintiff and Respondent,

v.

LAURA ANN SMITH,

Defendant and Appellant.

C069660

(Super. Ct. No. 10F8712)

Defendant Laura Ann Smith was found guilty by a jury of animal cruelty. The trial court placed her on probation on the condition she serve 365 days in county jail.

Defendant's ensuing appeal is subject to the principles of *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124. In accordance with the latter, we will provide a summary of the offense and the proceedings in the trial court.

Defendant and Eunice Clark were neighbors. Both women owned two dogs. One of Clark's dogs was a six- to seven-pound Chihuahua-Miniature Pinscher mix named Roxy. Despite Clark's efforts, Roxy would escape from her yard once or twice every couple of weeks. Three or four of those times, Clark found Roxy playing with defendant's dogs in defendant's yard. Defendant had never said anything to Clark, but had complained to Clark's son about Roxy coming into her yard.

On November 2, 2010, unbeknownst to Clark, someone left her front gate open and Roxy escaped from Clark's yard and wandered into defendant's yard. Clark's daughter, Sunday Nelson, was in the bathroom at Clark's house when she heard screaming and cussing outside. She looked out the window and saw defendant walking towards Roxy. Defendant was repeatedly yelling, "Come get your fuckin' dog" and pointing to Clark's house. She then saw defendant kick Roxy on its side. The dog flew up in the air and then slid and just lay there. Defendant then walked over and stomped on the dog, which was lying on its side. Roxy let out a loud yelp.

Nelson ran into the living room, yelled to her mother "Go get your dog. She just hurt your dog" and ran out the door and confronted defendant. When Clark got to defendant's yard, Nelson was screaming at defendant. Clark did not see Roxy and apologized to defendant, who yelled, "Tell Roxy you're sorry. Tell your dog you're sorry." Defendant threatened to kill Roxy

the next time she caught the dog in the yard and accused Clark of being a bad dog owner.

Clark found Roxy on defendant's porch. When she picked the dog up, she could tell the dog was hurt. Clark and Nelson immediately took Roxy to the veterinary clinic but, despite the veterinarian's emergency measures, Roxy died shortly thereafter. A different veterinarian performed a necropsy on Roxy several weeks later. The cause of death was determined to be severe blunt force trauma to the chest area. The injury was consistent with someone stepping forcefully and deliberately on the dog.

A three-day jury trial commenced on September 27, 2011, after which the jury found defendant guilty of felony cruelty to an animal. (Pen. Code, § 597, subd. (a).) On October 28, 2011, the trial court placed defendant on formal probation for three years on the condition she serve 365 days in county jail. The trial court also imposed various fines and fees, including a \$600 restitution fine, a suspended \$600 probation revocation fine, and a \$200 base fine. Defendant was credited with 31 actual days and 14 conduct days, for a total of 45 days of presentence custody credit.

Defendant appeals. We appointed appellate counsel for defendant. Counsel has filed an opening brief setting forth the facts of the case and asking us to review the record to determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Counsel has also advised defendant 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 not received any communication from defendant.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

**DISPOSITION**

The judgment is affirmed.

\_\_\_\_\_ BUTZ \_\_\_\_\_, J.

We concur:

\_\_\_\_\_ NICHOLSON \_\_\_\_\_, Acting P. J.

\_\_\_\_\_ MAURO \_\_\_\_\_, J.