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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

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THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT ANDREW TUCKER,

Defendant and Appellant.

C070076

(Super. Ct. No.  
CRF11220)

Appointed counsel for defendant Robert Andrew Tucker asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) Finding no arguable error that would result in a disposition more favorable to defendant, we will affirm the judgment.

I

On April 17, 2011, defendant and his codefendant, Feliciano Pena, went into the victim's bedroom and beat the victim on his

face, head and torso. The beating was in retaliation for an earlier verbal dispute the victim had with one of their relatives. The victim suffered a laceration to his face with substantial bleeding and was rendered unconscious during the attack.

Defendant was charged with battery with serious bodily injury, assault by force likely to produce great bodily injury, and misdemeanor battery. (Pen. Code, §§ 243, subd. (d), 245, subd. (a)(1), 242.)<sup>1</sup> With respect to the first two charges, it was alleged defendant had served two prior prison terms within the meaning of section 667.5, subdivision (b).

Defendant pleaded no contest to assault with force likely to produce great bodily injury (§ 245, subd. (a)(1)) based on the understanding he would receive the middle term of three years and the remaining charges would be dismissed.

On May 20, 2011, the trial court sentenced defendant to the agreed upon three years in state prison. The trial court also imposed a \$600 restitution fine, a suspended \$600 parole revocation fine, a \$40 court security fee, and a \$30 criminal conviction assessment. Defendant was awarded 68 days of presentence custody credit (34 actual days and 34 conduct days).

Defendant appeals with a certificate of probable cause. (§ 1237.5.)

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<sup>1</sup> Undesignated statutory references are to the Penal Code.

II

Appointed counsel filed an opening brief that set forth the facts of the case and asked this court to review the record and determine whether there are any arguable issues on appeal.

(*Wende, supra*, 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 elapsed and we received no 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.

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MAURO, J.

We concur:

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NICHOLSON, Acting P. J.

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BUTZ, J.