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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.

ROGER CARL ONEY,

Defendant and Appellant.

C071778

(Super. Ct. No. CRF12316)

Appointed counsel for defendant Roger Carl Oney has 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*)). We find no errors and shall affirm the judgment.

**BACKGROUND**

On June 2, 2012, law enforcement officers arrived at the home of defendant and A.S. in response to a report of domestic violence. A.S., who smelled like alcohol, told the responding officer that she and defendant, her live-in boyfriend, had argued. During the argument, defendant struck A.S. in the face with a closed fist and kicked her in the right leg and thigh. The officer noted that the left side of A.S.'s jaw was swollen.

Defendant admitted he and A.S. were arguing about A.S.'s drinking, but denied hitting or kicking her.

Defendant was subsequently charged with spousal abuse with a prior conviction for spousal abuse (Pen. Code, § 273.5, subd. (e)(1)). The charging document also alleged that, if convicted, defendant would serve his sentence in state prison because the crime with which he was charged was a serious felony under Penal Code section 1192.7, subdivision (c). The complaint was later amended to strike the allegation that defendant was previously convicted of spousal abuse.

Defendant pleaded no contest to the charge of spousal abuse (Pen. Code, § 273.5, subd. (a)), in exchange for which the People agreed to a sentencing bid of two years (the low term). The court later found defendant ineligible for probation and sentenced him to a term of two years in state prison. Defendant was ordered to pay various fines and fees and was awarded 97 days of custody credit (49 actual and 48 conduct).

Defendant appeals; his request for a certificate of probable cause was denied.

### **DISCUSSION**

Appointed counsel filed an opening brief that sets 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 have elapsed and we have 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.

DUARTE, J.

We concur:

RAYE, P. J.

BUTZ, J.