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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Sacramento)

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THE PEOPLE,

Plaintiff and Respondent,

v.

WAYLON DOUGLAS PITCHFORD,

Defendant and Appellant.

C072189

(Super. Ct. No. 11F03681)

Following a jury trial, defendant Waylon Douglas Pitchford, was convicted of committing assault with a deadly weapon by means of force likely to produce great bodily injury while confined in prison (Pen. Code, § 4501).<sup>1</sup> The trial court also found true the allegation that defendant had sustained a prior strike conviction (§§ 667, subd. (a), 667, subds. (b)-(i), 1170.12) and sentenced defendant to an aggregate term of 17 years in state prison.

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

Defendant appealed. His 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 offenses and the proceedings in the trial court.

## BACKGROUND

Shortly before noon on November 19, 2010, Correctional Officer Richard Mendoza was in the exercise yard of California State Prison, Sacramento, when he saw three inmates fighting. A public address announcement ordered the inmates to get on the ground. The other inmates in the yard got on the ground. The three who were fighting did not. As Officer Mendoza moved toward the fighting inmates, he identified them: defendant and another inmate, John Lanning, were hitting inmate Justin Russo. Officer Mendoza ordered them to get on the ground but they continued fighting, with Lanning and defendant punching Russo in the torso. Ultimately, Russo tried to run from defendant and Lanning. Lanning grabbed Russo's jacket and continued hitting him. Officer Mendoza saw Lanning had a stabbing weapon in his hand. Officer Mendoza pepper sprayed defendant and Lanning. They then retreated and got on the ground. Officer Mendoza checked Russo for injuries, found he was bleeding and called for a gurney. Lanning threw the weapon away and it landed near Sergeant Edwardo Vela, who ordered another officer to take control of it. A medical examination revealed Russo had sustained two serious puncture wounds and several minor wounds.

Russo testified he and defendant were friendly and affectionate with each other. Russo claimed Lanning had stabbed him, but defendant had nothing to do with it. Rather, he had been talking with defendant in the yard when Lanning approached them. Defendant may have gotten tangled in the fracas, but he had not tried to stab Russo or made any threatening motions towards Russo. Russo believed he had been targeted by one inmate for interfering with a planned attack against another inmate.

An information charged defendant with committing an assault with a deadly weapon by means of force likely to produce great bodily injury while confined in prison (§ 4501) and possessing and carrying a sharpened piece of metal on his person while confined in prison (§ 4502, subd. (a)). The information also alleged defendant had sustained a prior strike conviction (§§ 667, subd. (a), 667, subds. (b)-(i), 1170.12).

Prior to trial, defendant requested he be unshackled during trial. After conducting a security hearing, the trial court denied the request and ordered defendant shackled at the waist and ankles so the jury could not see the shackles.

A jury found defendant guilty of assault with a deadly weapon and not guilty of the possession of a sharp instrument in prison. In bifurcated proceedings the trial court found the prior conviction allegation true. The trial court sentenced defendant to an aggregate term of 17 years in prison, consecutive with his current prison term for murder, ordered defendant to pay a restitution fund fine of \$3,400 (§ 1202.4, subd. (b)) and waived the costs of the presentence report, court security fees and facility fees.

#### DISCUSSION

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief setting forth the facts of the case and, pursuant to *Wende, supra*, 25 Cal.3d 436, requesting the court to review the record and determine whether there are any arguable issues on appeal. 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 undertaken an examination of the entire record pursuant to *Wende*, and we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

\_\_\_\_\_NICHOLSON\_\_\_\_\_, Acting P. J.

We concur:

\_\_\_\_\_HULL\_\_\_\_\_, J.

\_\_\_\_\_BUTZ\_\_\_\_\_, J.