

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

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

----

THE PEOPLE,

Plaintiff and Respondent,

v.

ELIJAH ALEXANDER NEVAREZ,

Defendant and Appellant.

C075242

(Super. Ct. No. SF120913A)

Appointed counsel for defendant Elijah Alexander Nevarez 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 affirm the judgment.

On July 10, 2012, defendant and three other men drove to a drugstore and parked across the street. They all wore masks and other items designed to conceal their identity. Defendant and the others crossed the street; two of the men entered the drugstore while carrying guns. Upon entering the store, the two men made statements such as, “Get down on the ground,” “It’s a robbery,” and “everyone down.” After they pointed their guns at an employee and ordered her to hang up the phone, another employee pulled out a firearm and fired at the men, causing them to run back to their vehicle and drive off with the other would-be robbers. The vehicle was eventually stopped. Four men were inside;

defendant was in the left rear passenger seat. One of the passengers threw a gun out of the vehicle before it was stopped. Defendant was an active member of the Norteño gang and committed the robbery to promote or benefit his gang.

Defendant pled guilty to attempted robbery (Pen. Code, § 664/211), admitted gang and firearm enhancements (Pen. Code, §§ 12022, subd. (a)(1), 186.22, subd. (b)(1)(B)), and waived 120 days of presentence custody credits. The trial court sentenced defendant to serve a stipulated term of eight years in state prison, imposed various fines and fees, and awarded 361 days of presentence credits (314 actual and 47 conduct).

Defendant was granted a certificate of probable cause and appeals.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests 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.

HOCH, J.

We concur:

BLEASE, Acting P. J.

NICHOLSON, J.