

NOT TO BE PUBLISHED

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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.

JOHN ERIC FOSTER,

Defendant and Appellant.

C079108

(Super. Ct. No. 13F03488)

Appointed counsel for defendant John Eric Foster has asked this court to review the record to determine whether there exist 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

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.) On May 13, 2013, defendant's former girlfriend, Marcella M., awoke to defendant punching her in the face

with a weapon “placed over his knuckles.” Later that same day, they were at a gas station and defendant punched Marcella in the face with such force she hit a brick wall and fell to the ground unconscious.

Later that day, while they at defendant’s apartment, defendant punched Marcella in the face repeatedly. Defendant kept Marcella in the apartment against her will until the following morning.

On May 17, 2003, Marcella went to the hospital. She had a concussion and her brain was bleeding; her face and elbow were bruised and she was experiencing pain in her head and sides. As a result of defendant beating her, Marcella was rendered partially blind in her right eye and suffered hearing loss in her right ear.

Defendant was arrested, charged with multiple crimes, and later pleaded no contest to two counts of battery causing serious bodily injury, admitted serving two prior prison terms, and admitted being previously convicted of a strike offense. The remaining charges were dismissed.

The trial court subsequently sentenced defendant to an aggregate term of 20 years in state prison and awarded him 26 days of presentence custody credit, including 13 days of conduct credit. The trial court also ordered defendant to pay several fines and fees.

Defendant filed a timely notice of appeal and the trial court granted his request for a certificate of probable cause.

## II

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 elapsed and we received no communication from defendant.

