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

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTOPHER JAMES TAYLOR,

Defendant and Appellant.

C080959

(Super. Ct. No. 15CR23076)

Appointed counsel for defendant Christopher James Taylor has filed an opening brief that sets forth the facts of the case and asks 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*)). After reviewing the entire record, we affirm the judgment. However, because the abstract of judgment contains two clerical errors, we direct the trial court to prepare a corrected abstract of judgment.

FACTUAL AND PROCEDURAL BACKGROUND

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.)

In 2008, the complaining witness, J.H., defendant, and J.H.'s daughter¹ lived in Fresno. In June 2008, defendant choked J.H. and hit her two times, causing bruising on her neck and side. The police were called and defendant fled on foot when officers arrived. He was arrested later that evening.

Following this incident, defendant was convicted of making a criminal threat (Pen. Code, § 422, subd. (a))² and willful infliction of corporal injury upon a girlfriend. (§ 273.5.) Shortly after defendant was released from jail, J.H. allowed him to move in with her. According to J.H., “things were okay briefly” but they soon “became volatile again.” When defendant became abusive, the police were called.

In 2013, J.H. moved to Amador County. J.H. and defendant maintained contact via text messages and voicemails. From October 2014 to December 2014, J.H. received messages from defendant that she perceived to be threatening.

In December 2014, J.H. received a text from defendant that stated: “Hello, I will be in [J.H.'s city of residence] with a crowbar at some point soon. It is easier to call me. . . . I plan on smashing [your daughter] to a pulp.” Defendant sent more text messages, including one that read: “Fuck it, piss on you. Piss on her. I hate you. I am going to murder you when I find you. I am staying until I find you.” Another said, “I am waiting. And when I find her, it is all going to change for you. Keep ignoring me. This is

¹ J.H. testified she and defendant raised her niece together during their relationship. J.H. and defendant refer to the niece as J.H.'s daughter.

² Undesignated statutory references are to the Penal Code.

bullshit. I am going to find you and [your daughter] and make you watch the life fade out of her I am just going to keep looking . . . until you communicate with me. I am begging for help and you are ignoring me. I will do what I say. And you will be sorry when you . . . are having to bury your kid.” Defendant sent additional texts indicating he knew where J.H.’s daughter went to school, and he was watching for her bus. He said he was “hunting” her with a crowbar, and was about ready to use it because he did not care anymore. Defendant also indicated he needed J.H.’s help to make peace inside himself, and if he was unable to do so, he was going to “get violent and fucked up.” In other texts, he referenced “busting up a girl’s head to pieces,” and indicated he would “murder [J.H.’s] daughter” unless J.H. helped him.

For a short period of time, defendant stopped texting J.H. However, in January 2015, he began texting her again. In one of the texts, he said he would “murder” J.H.

In April 2015, defendant was charged by felony complaint with two counts of making a criminal threat. (§ 422, subd. (a).) At the conclusion of the preliminary hearing, the trial court found sufficient evidence to hold defendant to answer to the two charged counts. In addition, the court found sufficient evidence to hold defendant to answer to an uncharged third violation of section 422 committed between October 1, 2014, and December 1, 2014. The trial court also denied defendant’s motion to reduce the charges to misdemeanors under section 17, subdivision (b).

In May 2015, defendant was arraigned on a felony information charging him with three counts of making a criminal threat. (§ 422, subd. (a).) Defendant waived formal arraignment and entered not guilty pleas.

At the pretrial readiness conference in July 2015, defense counsel declared a doubt as to defendant’s competency under section 1368, and the trial court ordered proceedings suspended pending an evaluation of defendant. Following the submission

of a doctor's report, defendant was found competent and criminal proceedings were reinstated.

After defendant waived a jury trial, a bench trial commenced in October 2015.³ The prosecution called three witnesses, J.H. and two police officers. Audio recordings of defendant's voicemail messages and images of the text messages he sent to J.H. were received into evidence. Defendant testified on his own behalf,⁴ and no other defense witness was called.

The trial court found defendant guilty on counts one and two, which alleged threats made in December 2014 and in February 2015. The court found defendant not guilty on count three, which alleged threats made between October 1, 2014, and December 1, 2014. At the sentencing hearing, the trial court denied defendant's motion to reduce the charges to misdemeanors under section 17, subdivision (b). Thereafter, the court sentenced defendant to serve a term of three years in state prison, consisting of the upper term of three years on both counts, with the sentences to run concurrent. The court also imposed a 10-year criminal protective order pursuant to section 136.2 subdivision (i)(l). The court ordered defendant to pay a \$900 restitution fine, a matching suspended parole revocation restitution fine, an \$80 court security fee, and a \$60 conviction assessment fee.

³ Prior to trial, defense counsel told the court defendant had informed him he wanted a new lawyer. However, after conferring with defendant, defense counsel stated, "Now he is telling me he is okay with me"

⁴ With respect to the assault on J.H. in 2008, defendant testified he did not hit J.H., and J.H. "either lied to the police or the police completely embellished the whole report." He further testified the messages he sent to J.H. were not intended as threats but rather as a means to provoke a response from J.H., whom he believed was being unreasonable in not responding to his urgent situation. He claimed the language he used was the product of frustration and poor vocabulary that had been taken out of context.

Defendant filed a timely notice of appeal.

DISCUSSION

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts and procedural history 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 from the date the opening brief was filed. To date, defendant has not filed a supplemental brief. Having undertaken an examination of the entire record pursuant to *Wende*, we find no arguable error that would result in a disposition more favorable to defendant. Consequently, we affirm the judgment. (*Wende, supra*, 25 Cal.3d at p. 443.) However, because our review of the record disclosed two clerical errors in the abstract of judgment, we direct the trial court to prepare a corrected abstract of judgment.

At the sentencing hearing, the trial court orally imposed an \$80 court security fee and a \$60 conviction assessment fee. However, the abstract of judgment mistakenly reflects a court security fee in the amount of \$40 and a conviction assessment fee in the amount of \$30. This court “ ‘has the inherent power to correct clerical errors in its records so as to make these records reflect the true facts.’ [Citations.]” (*People v. Mitchell* (2001) 26 Cal.4th 181, 185, quoting *In re Candelario* (1970) 3 Cal.3d 702, 705.) Accordingly, we order the abstract of judgment corrected to reflect the oral pronouncement of sentence.

DISPOSITION

The judgment is affirmed. The trial court shall prepare a corrected abstract of judgment to reflect an \$80 court security fee per Penal Code section 1465.8 and a \$60

conviction assessment fee per Government Code section 70373 and forward a certified copy to the Department of Corrections and Rehabilitation.

/s/
HOCH, J.

We concur:

/s/
BLEASE, Acting P. J.

/s/
HULL, J.