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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

GERALD HAYNES,

Defendant and Appellant.

D058884

(Super. Ct. No. SCD226240)

APPEAL from a judgment of the Superior Court of San Diego County, Laura W. Halgren, Judge. Affirmed.

Pursuant to a plea agreement, Gerald Haynes entered guilty pleas to one count of assault with a semiautomatic firearm (Pen. Code,<sup>1</sup> § 245, subd. (b)) and one count of robbery (§ 211) and admitted a gang allegation as to both counts (§ 186.22, subd. (b)(1)). Haynes further admitted the Welfare and Institutions Code section 707, subdivision (d)(1) allegations as to each count. The agreement also included a stipulated 12-year prison

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise specified.

term and a waiver of any right to appeal the denial of his section 1538.5 motions or the stipulated sentence.

Haynes was sentenced in accordance with the plea agreement. All other remaining counts and allegations were dismissed. Haynes filed a timely notice of appeal and the trial court granted his application for a certificate of probable cause.

Counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *Anders v. California* (1967) 386 U.S. 738 (*Anders*), raising a possible, but arguable issue.<sup>2</sup> We offered Haynes the opportunity to file his own brief, but Haynes has not responded.

#### STATEMENT OF FACTS

The events surrounding the assault count took place on August 2, 2009. Haynes and two other males were involved in shooting at an occupied vehicle.

The robbery occurred on December 20, 2009. Two males, including Haynes who was known as "Fat Boy," took a cell phone from a person at a mall, after Haynes displayed a small, semiautomatic handgun.

#### DISCUSSION

As we have previously noted, appellate counsel has filed a brief indicating she is unable to identify any argument for reversal, based on the record on appeal. Counsel

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<sup>2</sup> Counsel advises that she is in the process of preparing a habeas corpus petition to address the issue of ineffective assistance of counsel, based on facts outside of this record. Haynes did not move to withdraw his plea in the trial court, thus the record before this court is devoid of any data that would support a claim of ineffective assistance of counsel. (*People v. Mendoza Tello* (1997) 15 Cal.4th 264.)

asks this court to review the record for error as mandated by *Wende, supra*, 25 Cal.3d 436. Pursuant to *Anders, supra*, 386 U.S. 738, the brief identifies a possible, but not arguable issue:

1. Did the trial court err in accepting Haynes's guilty plea?

We have reviewed the entire record in accordance with *Wende, supra*, 25 Cal.3d 436, and *Anders, supra*, 386 U.S. 738, and have not found any reasonably arguable appellate issues. Competent counsel has represented Haynes on this appeal.

#### DISPOSITION

The judgment is affirmed.

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HUFFMAN, Acting P. J.

WE CONCUR:

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NARES, J.

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O'ROURKE, J.