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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

ERIC LYNN KEEFER,

Defendant and Appellant.

D059847

(Super. Ct. No. SCE301529)

APPEAL from a judgment of the Superior Court of San Diego County, William J. McGrath, Judge. Affirmed.

Eric Lynn Keefer was convicted following a jury trial of assault with a deadly weapon (Pen. Code,¹ § 245, subd. (a)(1)) and battery with serious bodily injury (§ 243, subd. (d)). The jury also found true serious felony allegations under section 1192.7, subdivisions (c)(8) and (c)(23).

¹ All further statutory references are to the Penal Code unless otherwise specified.

Keefer was granted probation on certain terms and conditions. Keefer filed a timely notice of appeal.

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 possible, but not arguable issues. We offered Keefer the opportunity to file his own brief on appeal, but Keefer has not responded.

STATEMENT OF FACTS

In 2005, Keefer and the victim in this case, Jamie Quail, moved from Pennsylvania to California where Quail became Keefer's roommate.

In 2007, Keefer, Quail and Peter Henry moved into a four bedroom house in La Mesa. Quail was on disability and did some work cutting lawns for people. A fourth person, Jeremiah Landis also moved into the house. Quail and Landis each had their own bedrooms.

In the afternoon of May 26, 2010, Keefer and Quail got into an argument regarding money Keefer said was owed to him by Quail. The argument became physical and Keefer hit Quail on the side of his head with a soda glass. The blow cut Quail's face and almost severed his ear.

Landis took Quail to a hospital where he was treated in the emergency room. He required multiple stitches and staples to close the cuts.

Quail was interviewed by a police officer while at the hospital. Quail told the officer what happened but refused to identify the perpetrator at that time. The next day Quail reported the offense to police and identified Keefer as the perpetrator.

Defense Case

Peter Henry testified that he and Keefer were married in 2008. Henry said that on May 26 he came home from work. Henry and Keefer had previously decided to evict Quail and had served him with a formal notice. There was an argument between Keefer and Quail that afternoon, but Henry and Keefer left before there was any injury to Quail. When they returned that night they discovered the mirror in Quail's room had been shattered. Quail was not home at that time. Henry replaced the mirror the next day.

Landis testified that on May 26 Quail came to him with a paper towel on his ear compressing a cut. Landis took Quail to the emergency room. Landis cleaned up a drop of blood from the carpet and discovered the mirror in Quail's room was broken. Quail did not tell Landis how he cut his ear.

DISCUSSION

As we have previously noted, appellate counsel has filed a brief indicating he is unable to identify any argument for reversal and 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 possible, but not arguable issues:

1. Whether there is sufficient evidence to support the convictions;

2. Whether the trial court erred in ruling it would permit evidence of Keefer's character to be admitted to rebut evidence of the victim's character;

3. Whether the probation condition regarding the possession of deadly weapons is unconstitutionally vague (an issue Keefer has expressly waived on appeal); and

4. Whether the court erred in imposing a booking fee without an express finding of an ability to pay.

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 Keefer on appeal.

DISPOSITION

The judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

HALLER, J.

AARON, J.