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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT EDWARD McCULLOUGH,

Defendant and Appellant.

D062006

(Super. Ct. No. SCD230586)

APPEAL from a judgment of the Superior Court of San Diego County, Louis R.

Hanoian, Judge. Affirmed.

Robert Edward McCullough threw a full can of beer at a cashier after the cashier refused to sell him the beer due to McCullough's intoxication. The beer can crushed the cashier's ear, causing a partial amputation. After receiving treatment, McCullough was found competent to stand trial. A jury found McCullough guilty of mayhem and assault with a deadly weapon. The trial court sentenced him to three years formal probation and time served. The trial court imposed various fines and fees. McCullough timely appealed.

DISCUSSION

Appointed appellate counsel filed a brief summarizing the facts and proceedings below. He presented no argument for reversal, but asked this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Under *Anders v. California* (1967) 386 U.S. 738 (*Anders*), counsel listed as possible, but not arguable, issues, whether: (1) the evidence supported the conviction; and (2) the trial court (a) abused its discretion in denying McCullough's motion under *People v. Marsden* (1970) 2 Cal.3d 118, (b) erred in failing to acquit McCullough due to insufficient evidence under Penal Code section 1118.1, (c) erred in finding McCullough incompetent to stand trial, (d) erred by failing to grant McCullough's motion for new trial, and (e) properly instructed the jury on the elements of mayhem.

We granted McCullough permission to file a brief on his own behalf. He has not responded. Our review of the record pursuant to *Wende*, including the possible issues listed by counsel pursuant to *Anders*, has disclosed no reasonably arguable issues on appeal. Competent counsel has represented McCullough on this appeal.

DISPOSITION

The judgment is affirmed.

McINTYRE, J.

WE CONCUR:

MCDONALD, Acting P. J.

IRION, J.