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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JEFFREY ALLEN BRAND,

Defendant and Appellant.

E055591

(Super.Ct.No. FWV1101744)

OPINION

APPEAL from the Superior Court of San Bernardino County. Jon D. Ferguson,
Judge. Affirmed.

John D. O'Loughlin, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

On October 12, 2011, an information charged defendant and appellant Jeffrey Allen Brand with inflicting traumatic injury on a coparent under Penal Code¹ section 273.5, subdivision (a) (count 1); and contempt of court under section 166, subdivision (c)(1), for violating a protective and stay-away order issued under section 136.2 (count 2). On October 13, 2011, defendant entered pleas of not guilty on both counts.

On November 29, 2011, the prosecution's motions to impeach defendant with a prior burglary conviction, and to introduce evidence of prior acts of domestic violence under Evidence Code section 1109, were granted. Jury trial commenced.

On December 7, 2011, the jury returned verdicts of guilty on both counts.

On January 13, 2012, probation was denied. The trial court sentenced defendant to the midterm of three years in state prison on count 1; and 180 days in county jail on count 2, with 180 days credit for time served. The court awarded credit for 400 days presentence custody (200 days of actual credit & 200 days of conduct credit under § 4019). The court also ordered defendant to pay numerous fines and fees.

On February 6, 2012, defendant filed a timely notice of appeal.

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

STATEMENT OF FACTS

The victim and defendant lived in a studio apartment on Euclid in Ontario with their two children, ages one and five. They were not married. On May 29, 2011, defendant came to the apartment and apologized for fighting the day before. The victim was still angry at defendant. She waited until defendant fell asleep and had a neighbor call the police for her. She waited for the police at a gas station.

On May 29, 2011, at 10:55 a.m., Officer Jeffrey Mirtich with the Ontario Police Department responded to the telephone call. He recorded his conversation with the victim. The victim had an abrasion on her clavicle, a red mark on her neck, an abrasion on her chest, and red marks on her wrist. The victim was distraught and shaking; she was wearing her pajamas.

The victim told the officer that she and defendant had been arguing the night before. Defendant left after giving her the key to the apartment. He returned early the next morning. The victim did not let him in; he entered with a spare key. Defendant grabbed the victim by the neck. She couldn't breathe. She told him to stop. Defendant punched her in the stomach three times and hit her in the chest. He grabbed her arms and wrists. The victim waited until defendant fell asleep to report the attack. After this incident, defendant no longer lived with the victim.

One month later, on June 27, 2011, the victim went to the Ontario police station. Officer Dereck Anthony interviewed her. The victim had a black eye and was upset. She told the officer that her children's father beat her up and punched her in the eye. The

victim said that on Saturday, June 25, 2011, defendant came to her apartment to see the children. They discussed their relationship. She told defendant that she did not want to have a relationship with him. Defendant punched the victim in the eye. She fell to the floor and into a closet. Defendant kicked and punched her. She had bruises on her shoulder, neck and face.

The victim told Officer Anthony that she was afraid that defendant would take the children. She told defendant that he could stay at her apartment that weekend. She told the officer that she thought that she had a restraining order against defendant. The officer performed a California Laws Enforcement Telecommunication System (CLETS) database search and retrieved a protective order, which showed that on June 17, 2011, defendant was ordered not to harass, strike, threaten, assault, sexually follow, stalk, molest, destroy or damage property or disturb the peace with regard to the victim.

ANALYSIS

After defendant appealed, and upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 setting forth a statement of the case, a summary of the facts, and potential arguable issues, and requesting this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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MCKINSTER
Acting P. J.

We concur:

MILLER
J.

CODRINGTON
J.