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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.

TIMOTHY LEE BAGGETT,

Defendant and Appellant.

E063207

(Super.Ct.No. RIF1407999)

OPINION

APPEAL from the Superior Court of Riverside County. Jeffrey J. Prevost, Judge.

Affirmed.

Marta I. Stanton, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Timothy Lee Baggett is serving a three-year prison sentence after pleading guilty to false imprisonment and misdemeanor battery and admitting a prior prison term enhancement. We affirm.

FACTS AND PROCEDURE

On June 11, 2014, defendant became angry with the female victim, who was a “long time family friend” and was staying in the family home as a favor to her. Defendant could not find his cellular telephone charger, and believed the victim had stolen it from him. Defendant believed she had stolen other items from him on previous occasions. Defendant broke down the locked door to the garage, where the victim had sought refuge with another tenant. Defendant continued to yell at the victim about going into the house to find his charger, as he pushed her down and grabbed her by the hair. The victim headed toward the house, but then tried to run out an open gate near an alley. Defendant caught the victim and pushed her down, then grabbed her by the neck and dragged her by the hair back to the house. Defendant kept pushing the victim until they entered her bedroom, where she emptied her purse and drawers to show that she was looking for the telephone charger. The victim had called 911 and was stalling defendant until help arrived. Defendant told her he had a gun that he was going to shoot her with, and showed her a screwdriver, which he said would make a perfect weapon. Deputies arrived a short time later. The confrontation was recorded because the victim had purposely left on her cell phone after calling 911. Several other people called 911 because they heard shouting and screaming coming from the residence.

On August 27, 2014, the People filed an information charging defendant in count one with felony false imprisonment by violence, menace, fraud and deceit (Pen. Code, §

236),¹ and in count two with misdemeanor battery (§ 242). The People alleged defendant had a prior prison term conviction (§ 667.5, subd. (b)).

On January 27, 2015, defendant pled guilty to both counts and admitted the prison prior. The court explained that defendant's sentence could be up to four years and stated "You are still a candidate for probation, so the actual sentence to be imposed is up in the air."

At sentencing on February 19, 2015, the court noted that defendant was statutorily ineligible for probation under section 1203, subdivision (e)(4), because he had two felony convictions in 2010. The court declined to find unusual circumstances that would allow it to place defendant on probation. The court sentenced defendant to three years in prison as follows: the midterm of two years for the false imprisonment plus an additional year for the prison prior. On count two, the court sentenced defendant to a concurrent term of six months in jail.

This appeal followed. The court granted a certificate of probable cause.

DISCUSSION

After defendant appealed, 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 conduct an independent review of the record. The trial court did not violate the terms of

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

the plea agreement² when it found defendant presumptively ineligible for parole because his two felony convictions arose from the same criminal case. (*People v. Collier* (1979) 90 Cal.App.3d 658, 661.)

We offered defendant an opportunity to file a personal supplemental brief, and he has not done so.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the entire record for potential error and find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment of conviction and sentence are affirmed.

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RAMIREZ

P. J.

We concur:

HOLLENHORST

J.

MILLER

J.

² The written plea agreement is not part of the record on appeal. The superior court clerk filed an affidavit of lost documents stating the plea agreement could not be found.