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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 EDWARD BUSBY,

Defendant and Appellant.

E063526

(Super.Ct.No. RIF1501111)

OPINION

APPEAL from the Superior Court of Riverside County. Matthew C. Perantoni, Judge. Affirmed.

William Paul Melcher, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Pursuant to a negotiated plea agreement, defendant and appellant Timothy Edward Busby pled guilty to inflicting corporal injury resulting in a traumatic condition upon a spouse or cohabitant (Pen. Code, § 273.5, subd. (a)). Defendant also admitted that in the

commission of the offense he personally used a deadly and dangerous weapon, to wit, an automobile (Pen. Code, § 12022, subd. (b)(1)). In return, the remaining charge and enhancement allegations were dismissed and defendant was sentenced to a stipulated term of four years in state prison with credit for time served. Defendant appeals from the judgment based on the sentence or other matters occurring after the plea as well as challenging the validity of the plea and admission. We find no error and affirm the judgment.

I

FACTUAL AND PROCEDURAL BACKGROUND

On or about March 11, 2015, defendant willfully and unlawfully inflicted corporal injury resulting in a traumatic condition upon a former girlfriend with the use of an automobile.

On March 13, 2015, a felony complaint was filed charging defendant with assault with a deadly weapon, to wit, an automobile (Pen. Code, § 245, subd. (a)(1); count 1); and inflicting corporal injury resulting in a traumatic condition upon a cohabitant or a person who has and previously had a dating relationship (Pen. Code, § 273.5, subd. (a); count 2). The complaint also alleged that in the commission of the offenses, defendant personally used a deadly and dangerous weapon, to wit, an automobile (Pen. Code, § 12022, subd. (b)(1)). The complaint further alleged that defendant had suffered six prior prison terms within the meaning of Penal Code section 667.5, subdivision (b).

On March 24, 2015, defendant entered into a negotiated plea agreement with the People. He pled guilty to count 2 and admitted the weapon use enhancement in exchange for a stipulated term of four years in state prison and dismissal of the remaining charge and enhancement allegations. As part of the plea, defendant waived his right to appeal. When the court asked defense counsel whether counsel joined in defendant's decision to plead guilty and accept the four-year sentence, defendant's counsel did not join. The court inquired of defendant if he wished to "proceed anyway." Defendant responded, "Yes, sir." After directly examining defendant, the trial court found that defendant understood the nature of the charges and the consequences of the plea; that the plea was entered into voluntarily, knowingly, and intelligently; and that there was a factual basis for the plea. Defendant was thereafter immediately sentenced in accordance with his plea agreement and awarded 28 days presentence credit for time served.

On May 7, 2015, defendant filed a notice of appeal and request for certificate of probable cause, challenging the validity of the plea based on allegedly being threatened by the prosecutor with an up to 11-year sentence. On May 8, 2015, the trial court denied defendant's request for certificate of probable cause.

II

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.

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.

III

DISPOSITION

The judgment is affirmed.

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RAMIREZ

P. J.

We concur:

HOLLENHORST

J.

CODRINGTON

J.