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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.

ERICK JOE MILLAN,

Defendant and Appellant.

E064918

(Super.Ct.No. RIF1502679)

OPINION

APPEAL from the Superior Court of Riverside County. Helios (Joe) Hernandez,
Judge. Affirmed.

Eric E. Reynolds, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

FACTUAL AND PROCEDURAL HISTORY

A. PROCEDURAL HISTORY

On May 6, 2015, an information charged defendant and appellant Erick Joe Millan (defendant) with one count of making a criminal threat under Penal Code¹ section 422. The information also alleged pursuant to sections 667, subdivisions (c) and (e)(1), and 1170.12, subdivision (c)(1), that defendant had a prior conviction for a serious and violent felony. Moreover, the information alleged that pursuant to section 667, subdivision (a), defendant had a prior conviction for a serious felony. Furthermore, the information alleged two prison priors under section 667.5, subdivision (b).

On October 15, 2015, defendant filed a motion to strike the prior conviction allegations under section 1385 and *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497. On October 27, 2015, the court denied the motion.

On November 5, 2015, pursuant to a plea agreement, defendant pled guilty to making a criminal threat in exchange for a stipulated 160-month sentence and no admission of any of the alleged priors. Accordingly, the court sentenced defendant to the low term of 16 months. The court awarded defendant credits and ordered fines and fees.

On December 1, 2015, defendant filed a timely notice of appeal and requested a certificate of probable cause. The court denied defendant's request for a certificate of probable cause on December 2, 2015.

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

B. FACTUAL HISTORY

Defendant pled guilty before the preliminary hearing. Hence, there is no detailed record of the underlying facts.

At the hearing wherein defendant pled guilty, the court asked: “Is it true on May 3rd of this year in the county of Riverside, you threatened some other guy with death or bodily injury?” Defendant responded, “Yes.” Moreover, according to the prosecutor’s opposition to defendant’s *Romero* motion, on May 3, 2015, defendant threatened Adolfo, the father of defendant’s niece’s baby, and Elena, Adolfo’s mother. Defendant shouted to Elena, “Get the fuck out here bitch! I’ll beat the shit out of you and your family.” He also “raised his arms to his chest, clinched his fists, and threatened to look for Adolfo on the streets and take him out.” Defendant then yelled, “It’s on for you man! I’m going to be out for you, so watch your back!”

DISCUSSION

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 independently reviewed the record for potential error and find no error.

DISPOSITION

The judgment is affirmed.

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MILLER
Acting P. J.

We concur:

CODRINGTON
J.

SLOUGH
J.