

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

DANILO ALBERTO MAIRENA,

Defendant and Appellant.

F061710

(Super. Ct. No. F09903067)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Robert H. Oliver, Judge.

Carlo Andreani, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

-ooOoo-

* Before Cornell, Acting P.J., Gomes, J. and Poochigian, J.

On August 9, 2010, pursuant to a plea agreement, appellant, Danilo Alberto Mairena, pled no contest to infliction of corporal injury on a cohabitant within seven years of suffering a conviction of that offense (Pen. Code, § 273.5, subd. (e)(1),¹ count 1); assault with a deadly weapon (§ 245, subd. (a)(1), count 2); first degree burglary (§§ 459, 460, subd. (a), count 3); dissuading a witness by threat of force or violence (§ 136.1, subd. (c)(1), count 4); and making a criminal threat (§ 422, count 5); and admitted an enhancement allegation that in committing the count 1 offense, he personally used a dangerous and deadly weapon (§ 12022, subd. (b)(1)). On October 6, 2010, appellant filed a notice of motion to withdraw his plea.

On November 4, 2010, following a hearing, the motion was denied. Immediately thereafter, the court imposed a prison term of eight years, consisting of the four-year midterm on count 1, one year on the accompanying weapon enhancement and the three-year midterm on count 4. The court also imposed aggravated terms of four years on count 2, six years on count 3 and three years on count 5, and stayed execution of each of those terms pursuant to section 654.

There is no indication in the record that appellant requested, or that the court issued, a certificate of probable cause (§ 1237.5).

Appellant's appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, with citations to the record, raises no issues, and asks that this court independently review the record. (*People v. Wende* (1979) 25 Cal.3d. 436.) Appellant has not responded to this court's invitation to submit additional briefing.

The report of the probation officer indicates the following with respect to the facts of the instant case. Appellant, after "threatening to come and beat [the victim]," broke into her residence, entered the bedroom, and "proceeded to beat her with a four foot PVC

¹ Except as otherwise indicated, all further statutory references are to the Penal Code.

pipe and with his hands and fists, causing bruising over the majority of the victim's body ...” Appellant and the victim are the parents of a then 10-month-old baby girl, who was in the room at the time of the attack.

Following independent review of the record, we have concluded that no reasonably arguable legal or factual issues exist.

DISPOSITION

The judgment is affirmed.