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

THE PEOPLE,

Plaintiff and Respondent,

v.

JUSTIN TIMOTHY HARTT,

Defendant and Appellant.

F063787

(Super. Ct. No. 11CM7125)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kings County. Robert Shane Burns, Judge.

Michael L. Pinkerton, under appointment by the Court of Appeal, for Defendant and Appellant.

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

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* Before Wiseman, Acting P.J., Poochigian, J., and Detjen, J.

A jury convicted appellant, Justin Timothy Hartt, of battery by an inmate on a non-confined person (count 1/Pen. Code, § 4501.5)¹ and misdemeanor sexual battery (count 2/§ 243.4, subd. (e)(1)). In a separate proceeding, Hartt admitted allegations that he had a prior conviction within the meaning of the three strikes law (§ 667, subds. (b)-(i)). Following independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), we affirm.

FACTUAL AND PROCEDURAL HISTORY

On August 19, 2010, K.G. worked as a dental assistant in the dental department of A yard at the Substance Abuse Treatment Facility and State Prison in Corcoran. Her duties included taking an inmate's vital signs. At approximately 8:43 a.m., Hartt was taken there for a dental appointment. While taking Hartt's blood pressure, K.G. had Hartt sit in a consultation chair and extend his left arm in a downward angle. She then placed a blood pressure cuff on Hartt's arm and stood next to him on his left side. When K.G. turned to push the button that activated the cuff, Hartt raised his arm and touched K.G.'s vagina over her clothes with his thumb, which was pointed up. Hartt looked at K.G. and then turned as K.G. pushed his arm down and walked away. K.G. waited until Hartt's appointment was complete and he was taken out of the dental clinic before reporting the incident to Correctional Officer Maria Arias.

On June 2, 2011, the district attorney filed an information charging Hartt with the two counts he was convicted of and the strike allegation he admitted.

On September 20, 2011, after the jury convicted him on both counts, Hartt admitted the strike allegation.

On October 21, 2011, the court denied Hartt's motion to strike his prior conviction. It then sentenced him to a six-year term (the middle term of three years, doubled because of Hartt's strike conviction) on his battery conviction consecutive to the

¹ All further statutory references are to the Penal Code.

term he was already serving and a stayed term of 180 days on his sexual battery conviction. The court also ordered Hartt to register as a sexual offender.

Hartt's appellate counsel has filed a brief which summarizes the facts, with citations to the record, raises no issues, and asks this court to independently review the record. (*Wende, supra*, 25 Cal.3d 436.) Hartt has not responded to this court's invitation to submit additional briefing.

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

DISPOSITION

The judgment is affirmed.