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

THE PEOPLE,

Plaintiff and Respondent,

v.

FRANK GUERRERO,

Defendant and Appellant.

F065105

(Super. Ct. No. SF016333A)

**OPINION**

**THE COURT**\*

APPEAL from a judgment of the Superior Court of Kern County. Judith K. Dulcich, Judge.

Deborah Prucha, 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 Peña, J.

Pursuant to a plea agreement, appellant, Frank Guerrero, pleaded no contest to assault by means of force likely to cause great bodily injury by a person confined in state prison (Pen. Code, § 4501) and admitted an enhancement allegation that he had served a prison term for a prior felony conviction (Pen. Code, § 667.5, subd. (b)). Consistent with the plea agreement, the court imposed a prison term of three years, consisting of the two-year lower term on the instant offense plus one year on the prior prison term enhancement. Insofar as the record reveals, appellant did not request, and the court did not issue, a certificate of probable cause.

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.) Though advised by this court that he could submit additional briefing, appellant has not done so.

### **FACTS**

The report of the probation officer states the following: On April 17, 2011, a correctional officer at Wasco State Prison saw two inmates, appellant and Daniel Valenzuela, rush out of cell 221 and into cell 222. "Thereafter, [the officer] heard scuffling and screaming noises coming from cell 222." Officers responded to cell 222 and saw appellant run out of the cell and "assume[] a prone position," and Valenzuela, inside the cell, standing over the victim, Guadalupe Ortiz. According to a subsequently conducted medical evaluation, Ortiz "suffered a fractured left side sinus cavity and a laceration underneath the left eye requiring four sutures to close the wound."

### **DISCUSSION**

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

**DISPOSITION**

The judgment is affirmed.