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

In re MIGUEL G., a Person Coming
Under the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

MIGUEL G.,

Defendant and Appellant.

F065213

(Super. Ct. No. JJD066093)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Juliet L. Boccone, Judge.

Erik R. Beauchamp, 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., Kane, J., and Franson, J.

The court adjudged appellant, Miguel G., a ward of the court after it sustained allegations in a petition charging him with first degree burglary (Pen. Code, § 459) and a gang enhancement (Pen. Code, § 186.22, subd. (b)(1)(A)). Following independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), we affirm.

FACTUAL AND PROCEDURAL HISTORY

On March 12, 2012, just before noon, Tracy Canadry was on the second floor of her house when she called 911 after seeing three males next door in Patricia Alvarado's backyard peering into Alvarado's house. A short time later, one of the males got inside the house, opened a sliding door, and let the two other males in. Later, she saw the three males run out of the house through the sliding door. The males attempted to jump over a retaining wall, but instead they got off the wall in Canadry's backyard. However, her dogs chased them and the males began jumping over backyard fences. Between 30 and 45 minutes later, Canadry was taken to two locations where she identified appellant, Renato Hernandez (Renato) and Adrian Hernandez (Adrian) as the males she saw in her neighbor's yard.

Patricia Alvarado returned to her house around noon and found the upper pane of a side window broken, the window and a sliding glass door open, and a bag full of her children's toys on the floor. Alvarado looked around the house and found an iPod missing from an upstairs bedroom, a file cabinet that was open and had been rummaged through, and that the television and video game console in the living room had been unplugged from the wall.

Visalia Police Detective Sean O'Rafferty was on his way to the scene of the burglary when he detained and subsequently arrested appellant and Renato as they walked away from Alvarado's house. Also arrested that day were Adrian and Ezequiel

C. and Gonzalo Tejada, both of whom were riding around the neighborhood in a pickup during the burglary. Appellant had a cut on his left hand.

During an in-custody interview with Detective O'Rafferty, appellant admitted breaking the window to the victim's residence, but claimed he only acted as a look-out while Renato actually committed the burglary. However, upon further questioning, appellant admitted that the blood found in the residence was probably his.

Officer O'Rafferty also interviewed Ezequiel who told him that he was with the other males who were arrested and that they came from Delano. According to Ezequiel, Adrian and Tejada stayed in the truck while he, appellant, and Renato actually committed the burglary. Ezequiel, however, claimed that he acted as a look-out and did not enter Alvarado's house.

On March 14, 2012, the district attorney filed a petition charging appellant with first degree burglary (count 1), and street terrorism (count 2/Pen. Code, § 186.22, subd. (a)). Count 1 also alleged a gang enhancement (Pen. Code, § 186.22, subd. (b)(1)(A)).

At appellant's jurisdictional hearing, Visalia Police Detective Adam Collins testified as a gang expert that appellant and the four males arrested with him were gang members. Detective Collins also testified that a burglary committed by five gang members, in the manner that appellant and his co-participants committed the charged burglary, would be committed with the intent to promote, further, or assist a criminal street gang. Nevertheless, at the end of the prosecution case, the court granted defense counsel's motion to dismiss the street terrorism count (count 2).

On June 20, 2012, the court aggregated time from prior petitions, set appellant's maximum term of confinement at seven years eight months, and committed him to the Youth Correctional Center for a minimum period of 240 days to a maximum period of 365 days.

Appellant'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.) Appellant 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.