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

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE ALFREDO GARCIA,

Defendant and Appellant.

F068123

(Kern Super. Ct. No. BF147550A)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. Steven M. Katz, Judge.

Deborah Prucha, under appointment by the Court of Appeal, for Defendant and Appellant.

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

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

INTRODUCTION

Appellant/defendant Jose Alfredo Garcia pleaded no contest to grossly negligent discharge of a firearm (Pen. Code, §246.3)¹ and resisting an officer (§ 148), admitted three prior prison term enhancements (§ 667.5, subd. (b)) and was sentenced to a stipulated term of six years. On appeal, his 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. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) We will affirm.

FACTS

On March 9, 2013, Kern County Sheriff's Deputies Vasquez² and Johnson conducted a slow speed pursuit of defendant's car in Wasco. Deputies had prior information that defendant was a parolee at large, he was carrying a handgun around Wasco, and he made statements that he was going to shoot law enforcement officers.

Defendant ran from the car. There were two other people in the vehicle, and Deputy Johnson initially stayed with them. Deputy Vasquez pursued defendant on foot. As Vasquez chased him in a residential area, defendant fired five to six shots at Vasquez from a distance of 15 to 20 feet. Vasquez saw the muzzle flashes and hit the ground. Vasquez returned fire and wounded defendant. Deputy Johnson joined Vasquez at the scene, and they ordered defendant to show his hands. Defendant failed to obey their orders and apparently held onto the gun. Vasquez and Johnson fired additional shots, and defendant finally dropped his weapon and surrendered. As defendant was taken into

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

² The parties stipulated to a factual basis for defendant's pleas. There was no preliminary hearing in this case, and the facts are not contained in the probation report. The following factual summary is from Deputy Vasquez's statement to the court at the sentencing hearing, during which he objected to the negotiated disposition as too lenient.

custody, he complained that he had been shot. Defendant later claimed he fired at Vasquez just to scare him.

Procedural History

On March 27, 2013, a complaint was filed charging defendant with count I, attempted murder of Deputy Vasquez (§§ 667/187, subd. (a)); count II, assault with a semiautomatic firearm on a peace officer (§ 245, subd. (d)(2)); count III, possession of a firearm by a convicted felon (§ 29800, subd. (a)(1)); count IV, possession of a firearm of a person convicted of spousal abuse (§ 29805); count V, possession of ammunition by a convicted felon (§ 30305, subd. (a)(1)); and count VI, misdemeanor resisting an officer (§ 148, subd. (a)(1)), with firearm and prior prison term enhancements.

On May 16, 2013, the complaint was amended to add felony count VII, grossly negligent discharge of a firearm. Thereafter, defendant entered into a negotiated disposition and pleaded no contest to count VI (misdemeanor resisting an officer) and count VII (grossly negligent discharge) and admitted the three prior prison term enhancements, for a stipulated term of six years to run consecutively to the term to be imposed in an unrelated case. The court dismissed the remaining charges and enhancements.

On August 15, 2013, the court denied defendant's motion to continue the sentencing hearing for medical reasons. The court sentenced him to the upper term of three years for count VII, with three consecutive one-year terms for the enhancements, for an aggregate term of six years; and a concurrent term of 180 days for count VI.

DISCUSSION

As noted above, defendant's counsel has filed a *Wende* brief with this court. The brief also includes the declaration of appellate counsel indicating that defendant was advised he could file his own brief with this court. By letter on December 10, 2013, we invited defendant to submit additional briefing. To date, he has not done so.

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

DISPOSITION

The judgment is affirmed.