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

THE PEOPLE,

Plaintiff and Respondent,

v.

ANTONIO RAMIREZ GONZALEZ,

Defendant and Appellant.

F068433

(Super. Ct. No. F11902497)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Jonathan B. Conklin, Judge.

Robert L.S. Angres, 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 Levy, Acting P.J., Gomes, J. and Franson, J.

Appellant Antonio Ramirez Gonzalez pled no contest to kidnapping a child under the age of 14 (count 1/Pen. Code¹, § 208, subd. (b)), kidnapping (count 2/§ 207, subd. (a)), willful injury to a child (count 18/§ 273a, subd. (a)), and two counts of dissuading a witness (counts 7 & 8/§ 136.1, subd. (c)(1)), and he admitted a personal use of a deadly weapon enhancement (§ 12022, subd. (b)(1)) and a great bodily injury enhancement (§ 12022.7, subd. (d)) in count 18. Following independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Gonzalez lived with victim 1 (V1) for approximately two years. Around April 2011, V1 moved out of Gonzalez's residence. Gonzalez then began stalking V1 and showing up at her new residence unannounced.

On May 4, 2011, at approximately 7:30 p.m., as a friend was about to give V1 and her three-year-old son (V2) a ride from V1's cousin's house, Gonzalez showed up and forced V1 and V2 into his car. He then told V1, "I'm going to take you far away. If you don't go, I'm going to kill you." Gonzalez drove to Mendota and exchanged his vehicle for a friend's truck. As he drove, he pointed a gun at V1's head and stated, "I should kill you. I'll just crash on the freeway and kill us." He also pointed the gun at V2's head and said he would kill him too.

Gonzalez drove to Coalinga and rented a room at a motel. When he left the room and went to the truck, V1 called 911; however, she hung up when she saw Gonzalez get out of the truck to return to the room. When the phone started ringing, Gonzalez became upset, pushed V1 and yelled, "Now we have to go far away, or I'll have to kill you."

On May 5, 2011, at approximately 12:50 a.m., V1 called the motel's front desk and told the clerk that she had been kidnapped, to call 911, and that Gonzalez was going

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

to kill her. The clerk called 911 and reported the call from V1. Shortly afterwards, V1 took V2 and ran out of the room to the motel lobby, which was locked. She screamed for help and was let in by the clerk. However, Gonzalez forced himself into the lobby before the clerk was able to close and lock the door. As the clerk tried to call 911 from his cell phone, Gonzalez attempted, unsuccessfully, to grab the clerk's cell phone. Gonzalez then grabbed V1, held a pair of scissors to V1's throat, and said to the clerk, "Put the phone down and move out of the way or I will [expletive] kill her." The clerk complied, and Gonzalez forced V1 and V2 outside to the truck.

Gonzalez attempted to force V1 and V2 back into the truck. Gonzalez pushed V2, causing V2 to hit his head against the truck, and stated that he was going to kill V2. Gonzalez then held V2's right hand up, put the open scissors up to V2's hand, and closed the scissors, causing an approximately one and one-half to two inch long laceration on V2's pinky finger that required 29 stitches to close. Gonzalez then drove off without V1 or V2. Gonzalez fled to Mexico, and was eventually arrested on August 16, 2012.

On May 12, 2011, the district attorney filed a complaint charging Gonzalez with 21 counts and numerous enhancements, including the counts he pled to and the enhancements he admitted.

On August 8, 2013, during the preliminary hearing lunch break, defense counsel requested a plea offer from the prosecutor. After the break, the prosecutor made a plea offer that Gonzalez accepted. The plea agreement provided that in exchange for Gonzalez's plea, as detailed above, the remaining counts and allegations would be dismissed, and Gonzalez would receive a stipulated term of 25 years 4 months. Gonzalez then filled out a change of plea form, and the court went over it with Gonzalez and accepted his plea.

On October 17, 2013, the court denied Gonzalez's *Marsden*² motion. The court also appointed counsel for the sole purpose of investigating whether to file a motion to withdraw plea on Gonzalez's behalf.

On November 5, 2013, counsel advised the court that he did not find a basis upon which to file a motion to withdraw the plea on Gonzalez's behalf. After some discussion, the court sentenced Gonzalez to the stipulated term of 25 years 4 months as follows: (1) the aggravated term of 11 years on count 1; (2) a consecutive middle term of five years on count 2; (3) a consecutive middle term of three years on each of counts 7 and 8; (4) 16 months on count 18 (one third the middle term of four years); (5) 20 months on the great bodily injury enhancement in that count (one third the five-year enhancement term); and (6) four months on the weapon use enhancement in that count (one third the enhancement term of one year).

Gonzalez'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. (*People v. Wende, supra*, 25 Cal.3d 436.) Gonzalez has not filed a supplemental brief in response 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.

² *People v. Marsden* (1970) 2 Cal.3d 118.