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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE EDUARDO ESQUIVEL,

Defendant and Appellant.

H043465

(Monterey County

Super. Ct. No. SS150505)

Defendant Jose Eduardo Esquivel lived with his girlfriend, Brianna Limon. On March 26, 2015, Limon found defendant on a bed with another woman in the home Limon shared with defendant. Limon and defendant had an altercation, and defendant left the residence. Limon contacted her friend and her cousin to come help her move her things out of the house. As they were moving Limon's belongings out of the house, defendant returned and became angry. He told them that he was going to go into the house, get a gun, and shoot them, and he went into the house. The women were frightened, and they left the house and reported the matter to the police.

Limon and her cousin subsequently contacted the police and asked that the charges be dropped. Limon testified at the preliminary examination that defendant had neither assaulted her nor threatened her. She claimed that she had lied because she was mad at defendant.

The magistrate held defendant to answer, and he was charged by information with corporal injury to a cohabitant (Pen. Code, § 273.5, subd. (a)),¹ aggravated assault (§ 245, subd. (a)(4)), and three counts of criminal threats (§ 422, subd. (a)). It was further alleged that he had twice served prison terms for prior felony convictions (§ 667.5, subd. (b)) and had suffered a prior juvenile adjudication for a strike offense (§ 1170.12).

Defendant's section 995 motion was denied. He thereafter entered into a plea agreement under which he pleaded no contest to one felony criminal threats count and one misdemeanor criminal threats count and admitted one prison prior allegation and the strike allegation in exchange for a stipulated sentence of 44 months and the dismissal of the other counts and the remaining prison prior allegation. The stipulated factual basis for the pleas was defendant's threats against the cousin and the friend.

At the beginning of the sentencing hearing, defendant asked the court to appoint a new attorney to represent him. After a *Marsden*² hearing, the court denied his request. The court imposed the stipulated sentence, an \$800 restitution fund fine, and the other required fines and fees. It dismissed the remaining counts and allegation and three misdemeanor cases that were pending against defendant. Defendant timely filed a notice of appeal. His request for a certificate of probable cause was denied.

Appointed appellate counsel has filed an opening brief which states the case and the facts but raises no issues. Defendant was notified of his right to submit written argument on his own behalf but has failed to avail himself of the opportunity. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we have reviewed the entire record and have concluded that there are no arguable issues on appeal.

The judgment is affirmed.

¹ Subsequent statutory references are to the Penal Code.

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

Mihara, J.

WE CONCUR:

Elia, Acting P. J.

Bamattre-Manoukian, J.

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