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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

OSCAR GERVACIO,

Defendant and Appellant.

B238132

(Los Angeles County
Super. Ct. No. GA083151)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Darrell Mavis, Judge. Affirmed.

Joshua L. Siegel, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Respondent.

Appellant Oscar Gervacio was convicted of indecent exposure. His court-appointed counsel has filed an opening brief raising no issues. Following our independent examination of the entire record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), we conclude that no arguable issues exist, and affirm.

RELEVANT PROCEDURAL AND FACTUAL BACKGROUND

In June 2011, an information was filed charging appellant with indecent exposure with a prior conviction for indecent exposure (Pen. Code, § 314(1)).¹ The jury in his first trial was unable to reach a verdict, and a mistrial was declared.

In October 2011, an amended information was filed charging appellant with indecent exposure with a prior conviction for indecent exposure. The information alleged that he engaged in indecent exposure on April 30, 2011, and had suffered a conviction for indecent exposure in 2005. Accompanying the charge were special allegations that the offense required appellant to register as a sex offender (§ 290, subd. (c)) and serve custody time in state prison (§ 1170, subd. (h)(3)). Appellant pleaded not guilty and denied the special allegations.

During appellant's second jury trial, Carol T. testified that on April 30, 2011, she was washing clothes in a public laundromat. Appellant sat nearby, looked at her, and pulled down his shorts to expose his erect penis. In addition, Rose A. testified that on August 7, 2005, appellant exposed his erect penis to her in a public laundromat. Following the close of the prosecution case-in-chief, defense counsel unsuccessfully sought a judgment of acquittal (§ 1118.1) on the theory that Carol T.'s testimony was insufficient to establish that appellant engaged in indecent exposure.

¹ All further statutory citations are to the Penal Code.

Appellant testified on his own behalf. He admitted that he had pleaded guilty to indecent exposure in 2005 and that he was in the laundromats with Rose A. and Carol T., but denied that he exposed himself to either of them. Later, outside the jury's presence, appellant stipulated that he had been convicted of indecent exposure in 2005. Following the stipulation, the trial court determined that the evidence regarding appellant's 2005 conviction was properly admitted to establish appellant's intent (Evid. Code, §§ 352, 1101, subd. (b)).

In view of the stipulation, the jury was asked to determine only whether appellant contravened section 314 by engaging in indecent exposure on April 30, 2011. After the jury found appellant guilty, the trial court sentenced him to the low term of 16 months in state prison. This appeal followed.

DISCUSSION

After an examination of the record, appellant's court-appointed counsel filed an opening brief raising no issues and requesting this court to review the record independently pursuant to *Wende*. In addition, counsel advised appellant of his right to submit by supplemental brief any contentions or argument he wished the court to consider. Appellant has neither presented a brief nor identified any potential issues. Our examination of the entire record establishes that appellant's counsel has fully complied with his responsibilities and that no arguable issues exist. (*Wende, supra*, 25 Cal.3d at p. 441.)

DISPOSITION

The judgment is affirmed.

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MANELLA, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.