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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

NATHAN PITHYAKORN,

Defendant and Appellant.

B282345

Los Angeles County
Super. Ct. No. NA104402

APPEAL from a judgment of the Superior Court of
Los Angeles County, Tomson T. Ong, Judge. Affirmed.

Sylvia E. Ronnau, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Defendant Nathan Pithyakorn pled no contest to a felony weapons charge and admitted suffering two prior felony convictions. Pursuant to the agreed disposition, the trial court sentenced him to five years in custody. The court, however, suspended execution of the sentence and placed defendant on three years formal probation with certain terms and conditions. After defendant was found in violation of probation, the court imposed the suspended term. Defendant's appellate counsel filed a brief in which no issues were raised. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). We affirm the judgment.

BACKGROUND

By felony complaint filed June 15, 2015, defendant was charged with carrying a dirk or dagger in violation of Penal Code section 21310.¹ The complaint also alleged that defendant had suffered two prior felony convictions under section 667.5, subdivision (b).

On June 22, 2016, defendant pled no contest to carrying a dirk or dagger, a felony, in violation of section 21310. He also admitted having two prior convictions for which he served prison terms under section 667.5(b). The court sentenced defendant to a total of five years in custody, suspended execution of the sentence, and placed him on formal probation for three years subject to certain terms and conditions. Among other conditions of probation, defendant could not own, use, or possess any deadly or dangerous weapon, including knives or other concealable weapons. While on probation in this case, defendant was

¹ All further statutory references are to the Penal Code.

arrested. As a result, the court revoked defendant's probation pending a probation violation hearing.

On April 6, 2017, the court conducted a probation revocation hearing. Rene Gutierrez, a Rite Aid loss prevention agent, testified that, on January 19, 2017, he saw defendant and a companion walk into the liquor aisle in a Long Beach Rite Aid store, take two liquor bottles, move to a different aisle, and remove the security caps from the liquor bottles. Gutierrez identified himself as a loss prevention agent and told defendant and his companion to return the bottles. Defendant raised his voice, cursed, and refused to give the bottles to Gutierrez. After defendant "reached into his waistband to what looked to me to be a firearm," Gutierrez "backed off." After defendant and his companion left the store, Gutierrez contacted the police. Long Beach Police Officer Francisco Mora testified that he found a pocket folding knife, in an unfolded position, in defendant's front right sweater pocket.

After both sides rested, the court found defendant in violation of probation and imposed the previously suspended five-year term. The five-year term consisted of the upper term of three years for carrying a dirk or dagger (§§ 21310; 1170, subd. (h)), plus two years for the prison prior convictions. (§ 667.5, subd. (b).) The court further ordered defendant to pay a \$300 restitution fine, a \$40 court security surcharge, and a \$30 conviction assessment fine.

This timely appeal followed.

DISCUSSION

After reviewing the record, defendant's court-appointed counsel filed an opening brief asking this court to review the record independently pursuant to *Wende, supra*, 25 Cal.3d 436.

By letter dated September 8, 2017, we advised defendant that he had 30 days within which to submit any contentions or issues that he wished us to consider. We have not received a response.

We have examined the entire record and are satisfied that no arguable issues exist, and that defendant has received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278.)

DISPOSITION

The judgment is affirmed.

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LAVIN, J.

WE CONCUR:

EDMON, P. J.

CURREY, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.