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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSHUA GRADIAS,

Defendant and Appellant.

B276172

(Los Angeles County  
Super. Ct. No. BA444423-01)

APPEAL from a judgment of the Superior Court of Los Angeles County, George G. Lomeli, Judge. Affirmed.

Mona D. Miller, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

## INTRODUCTION

A jury convicted defendant and appellant Joshua Gradias of assault by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4)<sup>1</sup>) and found true the allegation that he personally inflicted great bodily injury on the victim during the commission of an assault (§ 12022.7, subd. (a)). Defendant admitted a prior conviction within the meaning of the Three Strikes law (§§ 667, subds. (b)-(i) & 1170.12, subds. (a)-(d)) and section 667, subdivision (a)(1). Pursuant to section 1385, the trial court struck the prior conviction for Three Strikes law purposes and sentenced defendant to 10 years in state prison.

On appeal, defendant's appointed counsel filed an opening brief in accordance with *People v. Wende* (1979) 25 Cal.3d 436 requesting this court to conduct an independent review of the record to determine if there are any arguable issues on appeal. Defendant did not file a brief or letter. We affirm the judgment.

## BACKGROUND

Between 9:00 and 9:20 a.m. on February 21, 2016, Crispin Brooks was walking on Vine Street, just south of Hollywood Boulevard when defendant struck him on his jaw twice. Brooks fell to the ground. When Brooks tried to get up, defendant either kicked or punched him, causing him to fall to the ground again. While Brooks was on the ground, defendant kicked or punched him more than once.

When Brooks was able to stand, he addressed defendant, who stared at Brooks with a glazed expression and then wandered up Vine Street toward Hollywood Boulevard. Brooks

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<sup>1</sup> All statutory citations are to the Penal Code.

observed defendant cross back and forth at, and wander around, the intersection of Vine Street and Hollywood Boulevard.

Initially, Brooks was in shock and did not feel any pain. About 15 minutes later, he was very short of breath and had difficulty walking. A passerby called 911. The People and defendant stipulated Brooks suffered a collapsed lung as a result of an assault that took place on February 21, 2016.

About 9:15 p.m., in response to the 911 call, Los Angeles Police Department Officer Christopher Burke was dispatched to the intersection of Vine Street and Hollywood Boulevard where he detained defendant. Brooks identified defendant as his attacker in a field show-up about 30 minutes after the assault.

## **DISCUSSION**

Defendant was arrested February 21, 2016, and sentenced June 30, 2016. The trial court awarded defendant 131 days of actual custody credit and 20 days of conduct credit. It appears defendant was awarded an extra day of conduct credit. (*People v. Ramos* (1996) 50 Cal.App.4th 810, 815-816; §§ 2933.1, subd. (a) & 667.5, subd. (c)(8).) We have otherwise examined the entire record and are satisfied defendant's counsel has fully complied with her responsibilities and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.) Accordingly, we affirm the judgment.

**DISPOSITION**

The judgment is affirmed.

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DUNNING, J.\*

We concur:

KRIEGLER, Acting P. J.

BAKER, J.

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