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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL HILDEBRAND,

Defendant and Appellant.

B275609

(Los Angeles County  
Super. Ct. No. LA082092)

APPEAL from a judgment of the Superior Court of Los Angeles County, Susan M. Speer, Judge. Affirmed.

Kenneth J. Sargoy, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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A jury convicted Michael Hildebrand of robbery and found true that he personally inflicted great injury during the commission of the offense. (Count 1; Pen. Code, §§ 211; 12022.7, subd. (a).)<sup>1</sup> The jury also convicted Hildebrand of dissuading a witness by force or threat (count 2; § 136.1, subd. (c)(1)), and assault by means force likely to produce great bodily injury with a finding that Hildebrand personally inflicted great bodily injury during the commission of the offense (count 3; §§ 245, subd. (a)(4); 12022.7, subd. (a)).<sup>2</sup> Hildebrand subsequently admitted that the dissuading offense occurred while he was released on bail or on his own recognizance. (§ 12022.1.) The trial court sentenced Hildebrand to a six year term on his robbery conviction, comprised of three years for the underlying crime and three years for the great bodily injury enhancement. The court imposed a concurrent term on the dissuading conviction, and imposed and stayed a term pursuant to section 654 on the assault conviction. Hildebrand's appointed counsel on appeal filed an opening brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). We affirm.

## FACTS

Anthony Correa (the victim) sold marijuana out of his apartment. On October 12, 2015, Hildebrand and two other men, Devin Duckett and Untrell Price, went to Correa's apartment. Duckett had previously contacted Correa about buying \$20 of marijuana. While Correa was showing some marijuana to

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<sup>1</sup> All further undesignated section references are to the Penal Code.

<sup>2</sup> The aggravated assault count arose from the same events as the robbery.

Duckett, Hildebrand suddenly “cheap-shotted, blindsided” Correa in the face, causing him to go “into like shock.” Correa suffered a broken jaw that required a titanium plate and screw to be implanted into his jaw. After hitting Correa, Hildebrand grabbed the marijuana and he and Duckett and Price ran from Correa’s apartment.

In late October 2015, the People filed a felony criminal complaint jointly charging Hildebrand and Duckett with the robbery of Correa.

At a court hearing on February 19, 2016, Duckett’s counsel stated in open court that Duckett might testify against Hildebrand at trial. After the hearing, Hildebrand approached Duckett outside the courthouse, and said, “Snitch on me in court and watch what happens. We’ll see how tough you are.”

In late February 2016, the People filed a felony criminal complaint charging Hildebrand with dissuading a witness. At a point not altogether ascertainable from the record, the robbery case and dissuading case were consolidated.

In March 2016, the People filed an information jointly charging Hildebrand and Duckett with robbery (§ 211), with a great bodily injury allegation as to Hildebrand that he personally inflicted great bodily injury (§ 12022.7, subd. (a)). Later in March 2016, the People filed an amended information jointly charging Hildebrand and Duckett with robbery, again with a great bodily injury allegation as to Hildebrand. The amended information further charged Hildebrand with dissuading a witness (§ 136.1, subd. (c)(1)), with an allegation that he had been released on bail or his own recognizance at the time of the offense (§ 12022.1.) In May 2016, the People filed an amended information again alleging the charges noted immediately above, and further

charging Hildebrand with assault by means of force likely to produce great bodily injury (§ 245, subd. (a)(4)), with an allegation that he personally inflicted great bodily injury. (§ 12022.7, subd. (a).)

In May 2016, the charges against Hildebrand were tried to a jury. At that time, the prosecution presented evidence establishing the facts we have summarized above. The prosecution's primary witnesses were Correa (the victim), testifying under a use immunity agreement as to all charges for the sale of drugs, and Duckett (Hildebrand's co-defendant), testifying pursuant to a plea agreement under which he was promised that his robbery charge would be dismissed following Hildebrand's trial.

Hildebrand testified in his own defense. He denied that he knew anything about a plan to rob Correa. He asserted that it was Duckett who had suddenly and unexpectedly hit Correa, and that it was Duckett who took the marijuana. Hildebrand testified that he ran from the scene with Duckett and Price because Hildebrand had been scared.

Concerning the events outside the courthouse on February 19, 2016. Hildebrand testified that he had said nothing more to Duckett than words to the following effect: "Hey bro. You know damn well I didn't hit that guy. It was your cousin [meaning Price]. . . . It was your fucking cousin."

The jury returned verdicts finding Hildebrand guilty as charged. The trial court thereafter sentenced Hildebrand as noted above.

Hildebrand filed a timely notice of appeal.

## DISCUSSION

We appointed counsel to represent Hildebrand on appeal. Appointed counsel filed an opening brief on appeal pursuant to *Wende, supra*, 25 Cal.3d 436, requesting independent review of the record on appeal for any arguable issues.<sup>3</sup> We notified Hildebrand by letter that he could submit any argument or issues that he wished our court to review. Hildebrand has not filed any claims or arguments.

## DISPOSITION

We have independently reviewed the record on appeal, and find that appointed counsel has fulfilled his duty, and that no arguable issues exist. (*Wende, supra*, 25 Cal.3d 436, *People v. Kelly* (2006) 40 Cal.4th 106.) The judgment is affirmed.

BIGELOW, P.J.

We concur:

FLIER, J.

GRIMES, J.

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<sup>3</sup> Counsel's opening brief informs us that a petition for writ of habeas corpus is planned, and will argue ineffective assistance of counsel.