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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.

KINDRICK D. THOMAS,

Defendant and Appellant.

B275432

(Los Angeles County
Super. Ct. No. BA440179)

APPEAL from a judgment of the Superior Court of Los Angeles County. Leslie Swain, Judge. Affirmed.

Carolyn D. Phillips, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury found defendant and appellant Kindrick Deon Thomas guilty in count 2 of attempted carjacking, in violation of Penal Code sections 664 and 215, subdivision (a). Defendant was found not guilty in count 1 of a separate offense of attempted grand theft of an automobile, in violation of Penal Code sections 664 and 487, subdivision (d)(1). The trial court sentenced defendant to the midterm of 30 months in state prison. Execution of sentence was suspended, and defendant was placed on formal probation for five years, with various terms and conditions, including that he serve a minimum of one year at a mental treatment facility.

This court appointed counsel for defendant on appeal. Appointed counsel filed a brief raising no issues, but requesting this court to independently review the record for arguable contentions pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Defendant was advised by letter from this court of his right to file a supplemental brief within 30 days. The 30-day period has elapsed and no supplemental brief has been filed.

We have completed our independent review of the record and find no arguable appellate issues. Defendant's conviction is supported by substantial evidence. The victim in count 2 testified that she decided to move her car to another parking spot on the street. As she was about to close the car door, defendant opened the door and began pushing and pulling the victim. The victim did not know defendant, and he did not have permission to enter or take

her car. They struggled for two minutes, as defendant tried to take control of the car. The victim suffered bruising to her arm, and the center console of her car was broken as she fought with defendant. Defendant did not speak, but simply stared at her throughout the attack. As the victim screamed, people began to move toward her car to help. Defendant fled, but after a chase was eventually chased down by several civilians and held for the police to arrive.

Defendant had the benefit of competent trial counsel. Counsel obtained the assistance of an expert to present a psychiatric defense. At counsel's request the court instructed the jury pursuant to CALCRIM No. 3428 that mental impairment may be a defense to a specific intent crime. Defense counsel was successful in obtaining an acquittal of the charge in count 1.

The sentence imposed was within the court's discretion. Although the prosecution and the probation officer recommended a state prison sentence, defense counsel convinced the court to impose a probationary sentence which allowed defendant the opportunity to deal with his mental issues.

Given this record, we are satisfied that appellate counsel has fulfilled her obligation on appeal of providing a basis for adequate and effective appellate review. The judgment is affirmed. (*Smith v. Robbins* (2000) 528 U.S. 259, 284.)

KRIEGLER, J.

We concur:

TURNER, P. J.

KIN, J.*

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