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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTIAN ALBERT ACEVES,

Defendant and Appellant.

B275258

(Los Angeles County  
Super. Ct. No. GA096164)

THE COURT:\*

Defendant and appellant Christian Albert Aceves (defendant) appeals from the an order revoking probation and imposing the previously suspended sentence. Defendant's appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues. After we notified defendant of his counsel's brief and gave him leave to file his own brief or letter stating any grounds or argument he might wish to have considered, defendant submitted a letter brief contending

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\* ASHMANN-GERST, Acting P.J., CHAVEZ, J., HOFFSTADT, J.

that the trial court had no authority to base its decision on a violation of the probation officer's instructions, and that defense counsel rendered ineffective assistance.

On June 15, 2015, defendant was convicted following a plea of no contest to sexual battery by restraint, in violation of Penal Code section 243.4, subdivision (a) (count 5), and kidnapping, in violation of Penal Code section 207, subdivision (a) (count 6). Under the terms of a plea agreement the trial court sentenced defendant to concurrent terms of eight years as to count 6 and four years as to count 5, suspended execution of sentence, and placed defendant on five years of formal probation under specified terms and conditions, including registering as a sex offender. The remaining counts were dismissed. Among other terms, the court ordered defendant to report to the probation officer; to obey all laws, orders of the court, and all rules, regulations, and instructions of the probation officer; and to complete a 52-week sex offender program and abide by the rules of the program.

The following year, defendant's probation was revoked and a contested probation violation hearing was held on June 2, 2016. Defendant wore a GPS monitoring device while on probation. His probation officer testified that defendant violated her instructions on multiple occasions to stay away from areas of high prostitution activity, as well as "look-out points," which she defined as secluded residential neighborhoods or open terrain away from traffic or street lights. After GPS monitoring revealed that defendant had gone to the Rio Hondo bike path and San Gabriel River Trail, his probation officer warned defendant that these places fit the description of look-out points. She imposed a curfew after defendant went to a high prostitution area, and defendant thereafter violated his curfew twice. GPS showed defendant at look-out points on both occasions. The trial court

found defendant in violation of probation and ordered imposition of the eight-year prison sentence, with combined custody credits of 735 days. Defendant filed a timely notice of appeal.

After appellate counsel filed a *Wende* brief, defendant submitted a letter brief, arguing that the instructions of the probation officer were not formal conditions of probation ordered by the court, and that her definition of look-out point was vague and overbroad. He also contends that defense counsel rendered ineffective assistance by failing to challenge the instructions, and for not presenting available evidence.

We find defendant's contentions regarding the conditions of probation to be without merit. (See *People v. Kwizera* (2000) 78 Cal.App.4th 1238, 1239-1241.) And as the record does not disclose defense counsel's reasons for his tactical choices, a claim of ineffective assistance is not cognizable on direct appeal. (See *People v. Vines* (2011) 51 Cal.4th 830, 876.)

We have examined the entire record and are satisfied that defendant's appellate counsel has complied with her responsibilities and that no arguable issue exists. We conclude that defendant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

The judgment is affirmed.

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