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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.

ANTHONY THOMAS SCOTT,

Defendant and Appellant.

B280919

(Los Angeles County
Super. Ct. No. TA139916)

APPEAL from a judgment of the Superior Court of Los Angeles County. H. Clay Jacke, II, Judge. Affirmed.

David R. Greifinger, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On May 24, 2016, defendant and appellant Anthony Thomas Scott entered a plea of no contest in case No. TA139916 to assault with a deadly weapon, in violation of Penal Code section 245, subdivision (a)(1). Imposition of sentence was suspended, and defendant was placed on formal probation for three years. Probation was ultimately revoked and terminated on November 9, 2016, based on the trial court's evaluation of evidence received in defendant's jury trial in case No. TA140763. Defendant was sentenced to state prison for the upper term of four years.¹ He appeals from the judgment.

This court appointed counsel for defendant on appeal. On December 8, 2017, 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 determine that there are no arguable appellate issues. Defendant was given notice of the conditions of probation in May 2016. Defendant was advised by the trial

¹ Defendant was also on probation in case No. TA139000. He was found in violation of this probation on November 9, 2016, and sentenced to a consecutive eight month term in state prison.

court that the probation violation in the instant case would be heard simultaneously with the jury trial. The trial court's finding that defendant violated probation is supported by substantial evidence that defendant threatened to kill a security guard while armed with a small knife and defendant refused repeated lawful orders from responding law enforcement officers.² The sentence imposed was within the range permitted by law.

Given this record, we are satisfied that appellate counsel has fulfilled his obligation on appeal of providing a basis for adequate and effective appellate review.

² Although the jury was unable to reach a verdict in case No. TA140763 on the charge of making criminal threats (Pen. Code, § 422) in Count 1 and found defendant not guilty of assault with a deadly weapon in Count 2, the trial court was entitled to find defendant in violation of probation under the preponderance of the evidence standard of proof. (*People v. Rodriguez* (1990) 51 Cal.3d 437, 447; *In re Coughlin* (1976) 16 Cal.3d 52, 56–58.)

The judgment is affirmed. (*Smith v. Robbins* (2000)
528 U.S. 259, 284.)

KRIEGLER, Acting P.J.

We concur:

BAKER J.

RAPHAEL, J.*

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