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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.

JONATHAN RODRIGUEZ,

Defendant and Appellant.

B264119

(Los Angeles County  
Super. Ct. No. BA417263)

APPEAL from a judgment of the Superior Court of the County of Los Angeles,  
Terry A. Bork, Judge. Affirmed.

Tracy L. Emblem, under appointment by the Court of Appeal, for Defendant and  
Appellant.

No appearance by Plaintiff and Respondent.

Following a jury trial, defendant was found guilty of possession of a firearm by a felon (Pen. Code, § 29800, subd. (a)(1)<sup>1</sup>; count 1) and assault with a firearm in violation (§ 245, subd. (a)(2); count 2). On count 2, the jury found defendant personally used a firearm in the commission of the crime. Defendant admitted he had a prior strike conviction. The trial court sentenced defendant to an aggregate 12-year prison term.

We appointed counsel to represent defendant on appeal. Defendant's appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) requesting that this court review the entire record to determine if there are any arguable appellate issues. We notified defendant of his right to file a supplemental brief within 30 days. Defendant did not file a supplemental brief.

## FACTS

### A. Prosecution Case

Christopher Rodriguez was sitting on his porch speaking to a friend when he noticed a woman across the street with a baby in her arms pushing a stroller as she left a house party. Defendant followed behind her, yelling at her and kicking the stroller. As she walked away, defendant grabbed "her by the face." During the incident, defendant made eye contact with Rodriguez.

Defendant eventually crossed the street and approached Rodriguez. Defendant placed a gun to Rodriguez's face and asked, "Where you from?" Rodriguez replied he "wasn't from anywhere." Defendant accused Rodriguez of lying, repeatedly called him a "bitch," and persisted with his question. Eventually an older gentleman placed his hand on defendant's shoulder and said "let's go." The two men left and the police were called.

When officers arrived, defendant made eye-contact with them and then ran. Defendant was eventually apprehended with the assistance of a police helicopter. A gun found on one of the nearby driveways was identified by Rodriguez and his friend as the gun used in the assault. Defendant's DNA was found on the gun.

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

## **B. Defense Case**

Defendant's father saw defendant and Rodriguez staring across the street at each other. Defendant walked toward Rodriguez's house and his mother and father followed him. Defendant approached Rodriguez and said, "Do you know [me] from somewhere?" Defendant's father touched defendant's shoulder and told him he "need[ed] to go. Get out of here." He instructed defendant's mother to escort defendant away from the scene, and she complied. Defendant's father shook Rodriguez's hand and apologized for coming on to Rodriguez's property. Neither defendant's father nor defendant's mother saw a gun in defendant's hand.

## **DISCUSSION/DISPOSITION**

Pursuant to *People v. Wende*, *supra*, 25 Cal.3d 436, we examined the entire record to determine if there are any arguable issues on appeal. Based on that independent review, we are satisfied appointed counsel fulfilled his obligations, and there are no issues warranting further review on appeal. The judgment is affirmed. (*Smith v. Robbins* (2000) 528 U.S. 259.)

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KUMAR, J.\*

We concur:

KRIEGLER, Acting P. J.

BAKER, J.

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