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REPORTS**

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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.

JOSE PABLO HERNANDEZ,

Defendant and Appellant.

B282714

(Los Angeles County
Super. Ct. No. SA091050-01)

APPEAL from an order of the Superior Court of Los Angeles County, Upinder S. Kalra, Judge. Affirmed.

Gordon B. Scott, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Jose Pablo Hernandez appeals from a probation revocation order. We affirm the order.

On July 8, 2016, defendant pled no contest to two counts of attempted second degree robbery (Pen. Code,¹ § 213, subd. (b)), misdemeanor assault with a deadly weapon (a rock) (§ 245, subd. (a)(1)), assault by means of force likely to produce great bodily injury (§ 245, subd. (a)(4)) and two counts of misdemeanor criminal threats (§ 422, subd. (a)). He admitted a prior felony conviction within the meaning of section 667, subdivision (a). The trial court imposed a nine-year, eight-month state prison sentence, suspended execution of the sentence and placed defendant on formal probation. Defendant's probation included a search condition.

On May 2, 2017, an alleged probation violation was heard together with the preliminary hearing in a new case, case No. SA094844, and a second alleged probation violation in case No. BA449396. Two law enforcement officers testified a search of defendant's person and subsequent investigation revealed defendant was in possession of a debit card the owner had lost and an EBT card that had been stolen from a vehicle. The trial court found defendant was in violation of his probation for failing to obey all laws. The court revoked and reinstated probation, with a modified condition that defendant serve 212 days in county jail. The

¹ Further statutory references are to the Penal Code except where otherwise noted.

court ordered that probation would terminate upon the completion of jail time.

Defendant's appointed appellate counsel filed an opening brief in accordance with *People v. Wende* (1979) 25 Cal.3d 436 requesting that we independently review the entire record to determine if there are any arguable issues. On January 3, 2018, we notified defendant that appointed appellate counsel had failed to find any arguable issues and defendant had 30 days within which to independently brief any grounds for appeal, contentions, or arguments he wanted us to consider.

On January 16, 2018, defendant filed a supplemental brief. Defendant apparently requests that we take judicial notice of the record in the new case involving defendant's possession of the debit and EBT cards. We may take judicial notice of state court records. (Evid. Code, §§ 452, subd. (d), 459, subd. (a).) The trial court's probation violation finding rested on the evidence presented at the preliminary hearing in the new case. Therefore, the transcript of that preliminary hearing is already a part of the present record. The remainder of the record in the new case, however, has no relevance to our review of the present probation revocation order. Accordingly, we decline to judicially notice that record. (*People v. Young* (2005) 34 Cal.4th 1149, 1171, fn. 3.)

We have reviewed the entire record and are satisfied that defendant's appointed appellate counsel has fully complied with his responsibilities and no arguable issues

exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.) We affirm the probation revocation order.

The May 2, 2017 probation revocation order is affirmed.

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KIM, J.*

We concur:

KRIEGLER, Acting P.J.

BAKER, J.

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