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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

DATREN LASHAD LESTER,

Defendant and Appellant.

B280968

(Los Angeles County
Super. Ct. No. MA068933)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Andrew E. Cooper, Judge. Affirmed.

Maxine Weksler, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Datren Lashad Lester pled no contest to one count of child abuse, admitted using a deadly weapon—a rock—during the offense, and admitted that he sustained a robbery conviction two years earlier. In exchange, the prosecutor dropped three other pending charges and agreed to a sentence of 13 years. Defendant obtained a certificate of probable cause and filed the instant appeal. His appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) requesting that we conduct an independent review of the record. We have done so and conclude that no arguable issues exist. We accordingly affirm.

FACTUAL BACKGROUND¹

On June 15, 2016, defendant's ex-girlfriend D.T.² was driving defendant from Lancaster to Victorville in her car. Their infant son, D.H., also was in the car. Defendant and D.T. got into an argument, and D.T. stopped the car and kicked defendant out. D.T. also threw defendant's belongings out of the car.

Defendant responded by throwing a rock through the back windshield of the car. The rock traveled through the car and cracked the front window. D.T. called the police. When Los Angeles County Sheriff's Department deputy John White arrived on the scene, defendant told White that he had thrown a rock through the car window. White testified D.T. told him that she and D.H. were in the car when defendant threw the rock through the window. White further testified D.T. told him that defendant threw additional rocks against the side of the car. However, D.T.

¹ Because the conviction was obtained by a nolo contendere plea, the facts are taken from the preliminary hearing transcript.

² We refer to the victims by their initials to protect their privacy. (See Cal. Rules of Court, rule 8.90(b)(4).)

testified that she lied to White and that neither she nor D.H. was in the car when defendant threw the rock through the window. She also testified that the side of her car was dented prior to this incident, defendant did not throw rocks at it, and she never told White he did.

PROCEDURAL HISTORY

Defendant was charged by third amended information with one count of child abuse (Pen. Code, § 273a, subd. (a), count 1)³, one count of felony vandalism (§ 594, subd. (a), count 2), and two counts of assault with a deadly weapon, a rock (§ 245, subd. (a)(1)), one each against D.T. (count 3) and D.H. (count 4). The information further alleged that defendant personally used a deadly and dangerous weapon, a rock, in the commission of counts 1 and 2 (§ 12022, subd. (b)(1)). It also alleged that defendant suffered two prior serious and/or violent felony convictions for robbery (§ 211), and therefore would be subject to sentencing under the Three Strikes Law (§§ 667, subds. (b)-(j), 1170.12) and would need to serve any term imposed in state prison (§ 1170, subd. (h)(3)). Additionally, it alleged that defendant suffered a prior conviction for a serious felony within the meaning of section 667, subdivision (a)(1), and did not remain free of prison custody without committing another felony offense for five years subsequent to the conclusion of his term for that offense (§ 667.5).

Defendant pled not guilty to the charges and denied all of the special allegations. On the first day of his jury trial, prior to jury selection, the court advised defendant he would be facing a determinate sentence of up to 21 years, followed by an

³ All further statutory references are to the Penal Code unless otherwise indicated.

indeterminate sentence of 25 years to life due to his prior strikes. The court suggested that defendant “think long and hard” about resolving the case, and gave defendant time to speak to his attorney and his mother.

Defendant’s attorney subsequently told the court that defendant was “against my advice wishing to proceed” with the trial rather than “explore a disposition given his high maximum exposure in this case.” The court confirmed this with defendant before addressing motions in limine regarding D.T.’s 911 call, defendant’s jail calls, and statements defendant made to Deputy White at the scene.

Defendant and the prosecutor reached a plea agreement during jury voir dire. The prosecutor informed the court that she had offered defendant the high term of six years on count 1, the child abuse count, which would be doubled pursuant to the Three Strikes Law, plus an additional one year for admitting the weapons allegation attached to the child abuse count. Defendant confirmed his understanding of the offer, as well as his understanding that he was “potentially facing life in this case” if he were to be convicted after jury trial. Defendant initialed and signed a standard “Plea Form, With Explanations and Waiver of Rights—Felony” memorializing the plea agreement. The court also reviewed several of his constitutional rights orally with defendant, who stated that he understood all of them. Defendant further denied that anyone threatened him or made him any promises to induce him to plead.

Defendant entered a no contest plea to count one, and admitted the allegation that he used a rock during the commission of the offense. He also admitted that he sustained a conviction for robbery in 2014. Defense counsel joined

defendant's waivers, concurred in the plea, and stipulated to a factual basis for the plea based on the police report and discovery.

The court found defendant's plea to be made freely and voluntarily with an understanding of its nature and consequences. It also made the standard findings listed on the plea form. The court accepted defendant's plea and sentenced him to a total of 13 years in state prison, as agreed by the parties and calculated as follows: the high term of six years, doubled to 12 years due to defendant's admitted strike, plus an additional year for the weapons use allegation. The court imposed various fines and fees, and issued a protective order barring defendant from contacting D.T. and D.H. It also awarded defendant a total of 364 days of custody credit and dismissed the other counts and allegations in the information.

Defendant timely appealed. The court granted his request for a certificate of probable cause based on his allegations that his counsel rendered ineffective assistance.

DISCUSSION

After reviewing the record, defendant's court-appointed counsel filed an opening brief requesting that this court independently review the record pursuant to *Wende*. On July 10, 2017, we informed defendant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. No supplemental brief has been filed to date.

We have independently reviewed the entire record and conclude that there are no arguable issues on appeal. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 110; *Wende, supra*, 25 Cal.3d at p. 443.)

DISPOSITION

The judgment is affirmed.

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COLLINS, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.