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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.

GILBERT ISIDRO SAAVEDRA,

Defendant and Appellant.

B276327

(Los Angeles County
Super. Ct. No. MA064806)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Frank M. Tavelman, Judge. Affirmed.

Christian C. Buckley, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Following a group fight at a park, defendant Gilbert I. Saavedra pled no contest to felony mayhem under Penal Code section 203,¹ and was sentenced to 13 years. We have conducted an independent examination of the entire record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), and conclude that no arguable issues exist. We therefore affirm.

FACTUAL AND PROCEDURAL BACKGROUND

At the preliminary hearing, Miguel G.² testified that he and three friends went to a park in Palmdale on the afternoon of October 11, 2014. Miguel and his friends were sitting in a car in the parking lot when another car with five men in it pulled up next to them. Defendant was driving. One man, co-defendant Jesus Abarca, got out of the front passenger seat and approached Miguel's car. Abarca said, "Do you guys bang?" "What do you guys have?" and, "This is Palmdale, homey. This is our hood. You're going to give us all your crap." With a screwdriver, Abarca started stabbing at Miguel's friend Jake R., who was sitting in the rear passenger seat of the car. All of the men then got out of their respective cars and began to fight.

Miguel testified that as the men were fighting, defendant said, "I'm about to go grab a strap." From the trunk of his car, defendant picked up a piece of metal that was silver, about two feet long, and three to four inches wide. Miguel's friend Ryan Z. had arrived in another car and was standing nearby. Defendant hit Ryan in the face with the piece of metal, splitting Ryan's lip.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

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

Defendant then hit Miguel's windshield, breaking the windshield. Abarca took some things from Miguel's car, including Miguel's and others' phones. Defendant, Abarca, and their companions then got in their car and left. Deputy sheriff and gang expert Daniel Welle testified that in his opinion, the type of crime Miguel described was committed for the benefit of or in association with a criminal street gang.

The Los Angeles County District Attorney charged defendant with one count of felony mayhem under section 203 for hitting Ryan in the face with the piece of metal. The information further alleged that the offense was committed for the benefit of or in association with a criminal street gang. (§ 186.22, subd. (b)(1)(c).) In addition, the information alleged that defendant had a strike prior (§§ 667, subds. (b)-(j), 1170.12) and a previous conviction for a serious felony (§ 667, subd. (a)(1)).

Defendant initially pled not guilty. He moved to dismiss the charges pursuant to section 995, arguing that Ryan's split lip could not meet the definition of "slits the nose, ear, or lip" in section 203. He also moved to sever his case from Abarca's.

Before the court ruled on his motions, defendant pled no contest to mayhem pursuant to a plea agreement. He admitted the allegations regarding his prior convictions, and the gang allegations were dismissed. Defendant was sentenced to the agreed-upon sentence of 13 years, calculated as the four-year midterm doubled pursuant to the Three Strikes Law, plus five years pursuant to section 667, subdivision (a)(1). The court awarded defendant 580 days of custody credit, which was erroneous; the court later amended the abstract of judgment to award defendant 602 days of custody credit. Defendant timely appealed.

WENDE REVIEW

On appeal, defendant's appointed counsel filed a brief requesting that we independently review the record for error. (*Wende, supra*, 25 Cal.3d 436, 441.) We directed counsel to send the record and a copy of the brief to defendant, and notified defendant of his right to respond within 30 days. Defendant sent a letter, which pre-dated the court's correction of custody credit, asking that his custody credit be corrected. Defendant raised no additional issues on appeal.

We have examined the entire record, and are satisfied no arguable issues exist in the appeal before us. (*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:

WILLHITE, Acting P. J.

MANELLA, J.