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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

NICHOLAS FILIBERTO DIMAS,

Defendant and Appellant.

B250643

(Los Angeles County  
Super. Ct. No. SA068055)

APPEAL from a judgment of the Superior Court of Los Angeles County.  
Elden S. Fox, Judge. Affirmed.

Vanessa Place, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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In October 2009, a jury convicted Nicholas Dimas of one count of rape of an unconscious person and one count of rape of an intoxicated person. (Pen. Code, § 261, subds. (a)(3), (a)(4).) On a prior appeal, we rejected Dimas’s claims of *Wheeler/Batson* error,<sup>1</sup> and that the trial court erred in excluding expert testimony on the subject of “false confessions.” (See *People v. Dimas* (Apr. 4, 2011, B223795 [nonpub. opn.].) We agreed with Dimas that the record reasonably could be construed to support the conclusion that trial court had applied the wrong legal standard in addressing and denying his motion for new trial on the ground of insufficiency of the evidence. (*Ibid.*) We affirmed Dimas’s convictions, reversed the new trial order, and remanded the case with directions to the trial court to consider the new trial motion anew. (*Ibid.*) On July 25, 2013, the trial court again denied Dimas’s motion for new trial. This appeal followed. We affirm the order denying Dimas’s motion for new trial.

### **DISCUSSION**

We appointed counsel to represent Dimas on appeal. Appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, requesting that our court review the record on appeal for arguable issues. We then notified Dimas by letter that he could submit any claim, argument or issues which he wished us to review. Dimas has not filed a letter brief. We have independently reviewed the record on appeal, and we are satisfied that Dimas’s appointed counsel fulfilled her duty, and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d 436, *People v. Kelly* (2006) 40 Cal.4th 106.)

### **DISPOSITION**

The trial court’s order of July 25, 2013, denying Dimas’s motion for new trial, is affirmed.

BIGELOW, P. J.

We concur:

FLIER, J.

GRIMES, J.

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<sup>1</sup> *People v. Wheeler* (1978) 22 Cal.3d 258; *Batson v. Kentucky* (1986) 476 U.S. 79.