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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.

KEVIN J. WHALEY,

Defendant and Appellant.

B248275

(Los Angeles County
Super. Ct. No. MA051624)

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

Carey D. Gorden, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

The trial court revoked Kevin Whaley's probation and ordered execution of a previously imposed and suspended four-year sentence on his conviction for corporal injury to a spouse or cohabitant. (Pen. Code, § 273.5, subd. (a).) We affirm.

FACTS

In late December 2010 and January 2011, Whaley and his girlfriend, Sheree H., lived together on and off at an apartment in Lancaster. On January 20, 2011, Whaley and Sheree started to argue when he began going through her belongings in a closet. Whaley punched Sheree multiple times, grabbed her around her neck, and threw a rock at her that hit and lacerated her leg.¹ Deputy sheriffs arrived and arrested Whaley.

Shortly after the incident, the People filed an information charging Whaley with corporal injury to a spouse or cohabitant (count 1; §273.5, subd. (a)) and assault with a deadly weapon (count 2; § 245, subd. (a)(1)) in case number MA051624. Further, the information alleged that Whaley had six prior convictions with a prison term. (§ 5667.5, subd. (b).)

On June 14, 2011, Whaley waived his constitutional trial rights, and pleaded no contest to the corporal injury count, and admitted one prior conviction. In accord with a plea agreement, the trial court sentenced Whaley to the mid-term of four years in prison, suspended execution of sentence, and placed Whaley on three years formal probation.

In August 2012, the court revoked Whaley's probation based on his then recent arrest for spousal assault. (§ 243, subd. (e)(1).) On September 20, 2012, Whaley pleaded no contest to spousal assault in case number 2AV05362. At the same time, the court reinstated probation in case number MA051624 on the same terms and conditions.

On February 25, 2013, Whaley started an argument with his then live-in girlfriend, Lakeya H., and physically attacked her. Whaley pushed Lakeya down on the bed, got on top of her, and pinned her down by the wrists. When Lakeya tried to squirm away, Whaley bit her on the wrists. Whaley got up, retrieved a belt from the closet and used it

¹ The facts are taken from the preliminary hearing.

to hit Lakeya six to eight times on her buttocks and leg. Sheriff's deputies responded to the scene and arrested Whaley.²

On February 27, 2013, the People filed a written motion requesting revocation of Whaley's probation in case number MA051624. At a contested hearing on April 5, 2013, the prosecution presented evidence establishing the facts of the Lakeya H. incident that are summarized above. The trial court found Whaley in violation of his probation in case number MA051624, and ordered execution of the previously-imposed four year sentence.

DISCUSSION

We appointed counsel to represent Whaley 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 thereafter notified Whaley by letter that he could submit any claim, argument or issues which he wished us to review. Whaley has not filed a letter brief. We have independently reviewed the record on appeal, and are satisfied that Whaley'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.)

DISCUSSION

The judgment is affirmed.

BIGELOW, P. J.

We concur:

RUBIN, J.

GRIMES, J.

² The People filed another case. (Case number OAV05083.)