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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 LOPEZ HERNANDEZ,

Defendant and Appellant.

B255879

(Los Angeles County
Super. Ct. No. VA131661)

APPEAL from a judgment of the Superior Court of Los Angeles County. Brian Gasdia, Judge. Affirmed.

Joseph R. Escobosa, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Appellant Jose Lopez Hernandez was convicted, following a jury trial, of one count of assault in violation of Penal Code section 240 (a lesser offense of the charged offense of assault with a deadly weapon in violation of Pen. Code, § 245, subd. (a)(1)), one count of misdemeanor child abuse in violation of Penal Code section 273a, subdivision (b) (a lesser included offense of child abuse in violation of Pen. Code, § 273a, subd. (a)), and one count of exhibiting a weapon against an officer while resisting arrest in violation of Penal Code section 417.8. The jury found appellant not guilty of the charged offense of resisting arrest in violation of Penal Code section 148, subdivision (a)(1).

The trial court placed appellant on formal probation for five years. Appellant was required to serve 60 days in county jail as a condition of probation.

Appellant appeals from the judgment of conviction. Finding no error, we affirm.

Facts

On August 15, 2013, appellant was drinking alcohol in the yard of a family member's house on Clara Street in Cudahy. An argument broke out between appellant and one of the family members, Miguel. Appellant's son, Jose Hernandez, Jr. ("Jose Jr."), restrained appellant. Another family member restrained Miguel and took him back to his nearby home on Clara Street.

Jose Jr. eventually succeeded in getting appellant to return to his home, a back house on Clara Street. Once there, however, appellant grabbed a knife, went outside and moved toward Miguel's home. Jose Jr. walked backwards facing appellant and tried to get appellant to stop. Appellant told Jose Jr. to get out of the way. Appellant's brother-in-law called 911.

Los Angeles County Sheriff's Deputies Mendoza and Sanchez came to the scene. They observed appellant walking down the street holding a large kitchen knife. The deputies repeatedly told appellant to drop the knife, but he did not. Appellant kept walking toward Miguel's house. Eventually, appellant turned and took a "combative" stance towards the deputies. Deputy Mendoza used his Taser on appellant. Appellant fell to the ground. He was then arrested.

Appellant did not present any witnesses at trial. His defense was essentially that he was too intoxicated to know what he was doing. Appellant's counsel also argued that the evidence showed that appellant was not trying to assault Jose Jr. Counsel also argued that the evidence supported an inference that appellant did not hear the voices of the deputies as he walked down the street.

Discussion

Appellant filed a timely notice of appeal, and we appointed counsel to represent him on appeal. Appellant's counsel filed an opening brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, and requested this court to independently review the record on appeal to determine whether any arguable issues exist.

On November 21, 2014, we advised appellant he had 30 days in which to personally submit any contentions or issues which he wished us to consider. To date, we have not received a supplemental brief from appellant.

We have examined the entire record and are satisfied appellant's attorney has fully complied with his responsibilities and no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

Disposition

The judgment is affirmed.

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GOODMAN, J.*

We concur:

TURNER, P.J.

KRIEGLER, J.

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