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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.

DAVID A. MIRANDA,

Defendant and Appellant.

B271983

(Los Angeles County
Super. Ct. No. LA075380)

APPEAL from a judgment of the Superior Court of Los Angeles County. Martin Larry Herscovitz, Judge. Affirmed.

Christine M. Aros, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In December 2013, David Miranda was convicted of one count of making criminal threats (Pen. Code, § 422) and two counts of resisting arrest (Pen. Code, § 69) stemming from an incident where he threatened his mother and a neighbor named Reyes.¹ The court imposed a combined sentence of three years eight months, but stayed execution of sentence and placed Miranda on probation for three years. His probation terms included requirements that he obey all laws, regularly attend mental health counseling programs, and that he stay 100 yards away from Reyes.

On February 15, 2016, Los Angeles County sheriff's deputies responded to a Lancaster home in response to a call stating that a man was seen dragging a woman into the house. When the deputies arrived, they heard a woman screaming, and, as they approached the front door, also heard the woman scream, "Just let me go." The deputies saw a woman – Whitney Hurst – run out the back door being chased by Miranda. The house belonged to Miranda's mother, and that was where Miranda lived.

The deputies handcuffed Miranda and questioned Hurst, who told them she was pregnant with Miranda's child. Hurst said Miranda was angry because they had been stopped and cited for driving a car without license plates on their way to an obstetrics examination. Miranda blamed Whitney, pulled her back into the house when she tried to leave, and began strangling her. Hurst said she almost passed out. She also said Miranda threw rocks at her back. The deputies saw

¹ We affirmed that conviction in *People v. Miranda* (2015) 236 Cal.App.4th 978.

no marks on her back, but did see red marks on her arm and neck. Miranda was arrested for assaulting Hurst.²

As a result of this incident, the district attorney filed a petition to revoke Miranda's probation from the 2013 criminal threats incident. Miranda's two probation officers testified that Miranda did not report for required meetings with them on five occasions. When probation officer Carrillo called Miranda in January 2016 due to his failure to report in December, Miranda hung up on him. Miranda was unable to provide the probation officers with verification that he was attending mental health counseling, but records were produced showing that he at least attended some counseling sessions.

Hurst testified and denied everything attributed to her in the deputy's incident report. According to Hurst, the red marks on her neck were hickeys. Miranda also denied attacking Hurst. Miranda acknowledged missing some mental health appointments but admitted he was wrong and promised to do better.

The trial court found that Miranda had violated probation in four ways: (1) by missing appointments with his probation officers on several occasions; (2) by not regularly going for mental health treatment; (3) by his attack on Hurst; and (4) by living with his mother, in violation of a probation condition that he stay 100 yards from her.

Miranda filed a notice of appeal. On October 31, 2016, his appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) in which no issues were raised. The brief included a declaration from counsel that she had reviewed the record

² This evidence came in through a deputy's incident report, with counsel stipulating that the deputy would testify as stated in the report.

and had sent Miranda a letter advising him that such a brief would be filed and that he could file a supplemental brief if he chose to. That same day, this court sent Miranda a letter advising him that a *Wende* brief had been filed and that he had 30 days to submit a brief raising any issues he wanted us to consider. Miranda did not file a supplemental brief.

We have examined the entire record and are satisfied that appellant's attorney has fully complied with her responsibilities and that no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259; *Wende, supra*, 25 Cal.3d 436.)

DISPOSITION

The judgment is affirmed.

RUBIN, J.

WE CONCUR:

BIGELOW, P.J.

GRIMES, J.