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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

BRIAN EDWARD STEVENSON,

Defendant and Appellant.

E079809

(Super.Ct.No. FMB22000116)

OPINION

APPEAL from the Superior Court of San Bernardino County. Rodney A. Cortez,
Judge. Affirmed.

Michaela Dalton, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

I.

INTRODUCTION

Following a probation revocation hearing, the trial court found that defendant and appellant Brian Edward Stevenson violated the terms and conditions of his probation by violating the law and the no-negative contact order. The court thereafter terminated defendant's probation and sentenced him to the low term of two years in state prison. Defendant appeals from an order after judgment. Based on our independent review of the record, we find no error and affirm the judgment.

II.

FACTUAL AND PROCEDURAL BACKGROUND¹

On March 21, 2022, defendant punched his long-time girlfriend/wife in the face during an argument. The punch caused the victim to suffer a one-inch laceration above her left eyebrow.

On April 19, 2022, defendant pled guilty to inflicting corporal injury on a spouse (Pen. Code, § 273.5, subd. (a)). In return, defendant was granted supervised probation for a period of four years on various terms and conditions, including not violating the law, completing a 52-week domestic violence batterer's program, and having no negative contact with the victim.

On June 10, 2022, a petition to revoke defendant's probation was filed alleging that defendant violated the terms of his probation when he (1) failed to enroll in a 52-

¹ A summary of the factual background of the underlying offense is taken from the police report.

week domestic violence program by June 1, 2022; (2) failed to cooperate or follow reasonable directives of probation; (3) violated the law and had negative contact with the victim; and (4) a pocketknife was found in defendant's motel room.

A formal probation revocation hearing was held on September 16, 2022. At that time, defendant's probation officer testified that defendant was placed on formal probation under various terms and conditions of probation, including enrolling in a domestic violence program by June 1, 2022, checking in/cooperating with the probation department, violating no law, and having no negative contact with the victim. The probation officer explained that as of June 10, 2022, defendant had not enrolled in a domestic violence program. Defendant was also directed to check-in or report with probation on April 27, May 4, and May 11, 2022, but failed to do so. Furthermore, during a home compliance check on May 24, 2022, defendant was found in possession of a pocketknife in his rented motel room. Finally, on June 5, 2022, defendant's probation officer received information that defendant had been arrested. The probation officer never received any voicemail messages from defendant. The probation officer acknowledged that after his arrest, defendant had informed him that he had enrolled in a domestic violence program on June 4, 2022. The probation officer, however, did not attempt to verify whether defendant was enrolled in the program.

A San Bernardino County Sheriff's deputy testified that on June 5, 2022, defendant's wife called 911 from her phone number and hung up while she and defendant were residing at a motel. When the deputies arrived at defendant's wife's motel room,

both defendant and his wife had bruising and red marks on their bodies. Specifically, defendant's wife had visible scratches, bruising to her cheek and cheekbone, and redness around her neck. Defendant's wife stated that they were going through a difficult time with child protective services taking their children. She also asserted that nothing had happened and that she did not want to get defendant in trouble. She did not say anything about a third party being involved and repeatedly stated that nothing had happened. When questioned about his and his wife's injuries, defendant asserted that he may have hurt himself when he fell in the pool wrong or when he and his wife were having rough sex. Defendant did not mention a third party.

Defendant's wife testified that she was with defendant on several occasions when he attempted to contact probation, and if there was no answer, defendant would leave a voicemail message. She provided a receipt showing defendant had enrolled in a domestic violence class on June 4, 2022. She claimed that her injuries came from an altercation between defendant and other men, one of whom punched her in the face when she attempted to break up the fight. She did not recall if she had informed the responding officer about the men, and believed the officer was not listening to her in the beginning when she said her husband did not touch her.

Defendant testified that he had called probation on numerous occasions as required and spoke with someone at least twice. He also claimed that he had given probation the name and number of someone to call to verify his enrollment in the domestic violence program. Defendant further testified that he had an altercation with

two males, which resulted in him being knocked unconscious. He did not see what had happened to his wife but knew that she had tried to get involved when everything went black. When he woke up, he was dizzy and wobbly, and his injuries included “multiple contusions on [his] head, multiple bruising, multiple knots . . . , a fractured nose[, and] a busted jaw.” Defendant claimed that when the police arrived, he was in shock and did not really remember what had happened; all he knew was he woke up on the ground bleeding from his nose, arms, knees, and back. He did not remember anything that had occurred prior to being unconscious until almost a day and a half or two days later. He was aware that his wife had been hit, but he did not tell the police because he was still in “la la land.” He did not remember telling officers that the injuries came from a fall in the pool and rough sex, claiming the explanation did not make sense.

Following argument, the trial court found that defendant had violated the terms of his probation by violating the law and the no-negative contact order. The court did not find a violation based on the other allegations (failure to contact probation and failure to enroll in a domestic violence program). The court thereafter revoked defendant’s probation and sentenced defendant to the low term of two years in prison with 429 days’ credit for time served. Defendant was ordered to pay a restitution fine and a stayed parole revocation fine of \$300. Defendant’s pending case was dismissed. Defendant timely appealed.

III.

DISCUSSION

After defendant appealed, upon his request, this court appointed counsel to represent him. Upon examination of the record, counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case, a summary of the facts and potential arguable issue of whether there was substantial evidence to support the court's finding defendant violated the terms of his probation, and requesting this court to conduct an independent review of the record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so.

An appellate court conducts a review of the entire record to determine whether the record reveals any issues which, if resolved favorably to defendant, would result in reversal or modification of the judgment. (*People v. Wende, supra*, 25 Cal.3d at pp. 441-442; *People v. Feggans* (1967) 67 Cal.2d 444, 447-448; *Anders v. California, supra*, 386 U.S. at p. 744; see *People v. Johnson* (1981) 123 Cal.App.3d 106, 109-112.)

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the entire record for potential error and find no arguable error that would result in a disposition more favorable to defendant.

IV.
DISPOSITION

The judgment is affirmed.

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CODRINGTON
J.

We concur:

McKINSTER
Acting P. J.

MILLER
J.