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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

**THE PEOPLE,**

**Plaintiff and Respondent,**

**v.**

**DAVID PAREDES,**

**Defendant and Appellant.**

**A129835**

**(City & County  
of San Francisco  
Super. Ct. No. 2439328)**

Appellant David Paredes pleaded guilty to inflicting corporal injury on a spouse (Pen. Code, § 273.5, subd. (a)) in November 2009. The court suspended imposition of sentence and placed appellant on probation. In April 2010, appellant was arrested after his wife called the police to report that he had kicked her in the thigh. The trial court revoked probation and sentenced appellant to the upper term of four years in state prison. Appellant has asked this court to conduct an independent review pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).

**FACTUAL AND PROCEDURAL BACKGROUND**

In November 2009, appellant pleaded guilty to inflicting corporal injury on a spouse (Pen. Code, § 273.5, subd. (a)). The court suspended imposition of sentence and placed appellant on probation.

On April 23, 2010, San Francisco Police Officer Erik Maher responded to a “call of domestic violence” on Hollister Street in San Francisco. When Maher arrived at the residence, appellant was sitting on the front stairs, crying. He was “apologizing, saying he was sorry. . . . He said that he didn’t do anything but he was sorry for it.” The victim, appellant’s wife, was shaking and crying; she told the police that appellant had kicked her in the thigh. She asked the officers to arrest appellant. The trial court admitted the victim’s description of where she was kicked pursuant to the spontaneous utterance hearsay exception set forth in Evidence Code section 1240 and determined the probation violation had “been shown by a preponderance of the evidence[.]”

At the sentencing hearing in July 2010, the court listened to arguments of counsel and statements from the victim. The court considered various factors in aggravation and mitigation and sentenced appellant to the upper term of four years in state prison, with credit for time served.

#### DISCUSSION

We appointed counsel to represent appellant on appeal. Counsel presents no argument for reversal, but asks this court to conduct an independent review of the record in accordance with *Wende, supra*, 25 Cal.3d at pages 441-442. Counsel informed appellant that he had the right to file a supplemental brief on his own behalf, but appellant declined to do so. We have conducted our independent review and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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Jones, P.J.

We concur:

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Simons, J.

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Bruiniers, J.