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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE, Plaintiff and Respondent, v. ARTHUR FREDRICK LUTE, Defendant and Appellant.	D056305 (Super. Ct. No. SCS228353)

APPEAL from a judgment of the Superior Court of San Diego County, Esteban Hernandez, Judge. Affirmed.

This appeal arises out of Arthur Fredrick Lute's plea of guilt to a charge of assault with a deadly weapon and by means of force likely to cause great bodily injury and proceeds in accordance with *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).

FACTUAL AND PROCEDURAL BACKGROUND

On the evening of April 23, 2009, Lute punched John Murphin and stabbed Murphin twice in the back with a knife. Lute was promptly charged with assault with a

deadly weapon and by means of force likely to cause great bodily injury; the charging document also alleged that he had personally used a deadly weapon within the meaning of Penal Code[1] section 1192.7, subdivision (c)(23), and personally used a deadly and dangerous weapon within the meaning of section 12022, subdivision (b)(1). Lute entered a plea of not guilty and the court set bail at $100,000.

In September 2009 Lute agreed to plead guilty to the charge and to admit the related allegations that he personally used a deadly weapon within the meaning of section 1192.7, subdivision (c)(23). In accordance with the plea agreement, the prosecutor dismissed the remaining enhancement allegations pursuant to section 12022, subdivision (b)(1), and the court imposed a stipulated low term sentence of two years.

Lute filed a notice of appeal; he also requested a certificate of probable cause to challenge his plea on the grounds that he suffered ineffective assistance of counsel, but the superior court denied that request. Lute's appellate counsel has filed a brief indicating that she has been unable to identify any argument for reversal and instead asks this court to review the record for error as mandated by *Wende*. Pursuant to *Anders v. California* (1967) 386 U.S. 738 (*Anders*), the brief identifies the following four issues as possible, but not arguable, on appeal:

1. whether Lute's guilty plea was constitutionally valid;
2. whether Lute's waiver of his appellate rights was valid;
3. whether Lute was adequately advised that he would receive a two year prison sentence; and
4. whether the court complied with the plea agreement or abused its discretion in imposing the sentence.

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1 Statutory references are to the Penal Code.

This court invited Lute to file a brief on his own behalf, but he did not respond.

DISCUSSION

We have reviewed the record in accordance with *Wende* and *Anders* and have not found any reasonably arguable appellate issues. Competent counsel has represented Lute on this appeal.

DISPOSITION

The judgment is affirmed.

O'ROURKE, J.

WE CONCUR:

MCINTYRE, Acting P. J.

IRION, J.