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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

GEOFFREY ALAN PETRIZZE,

Defendant and Appellant.

A133550

(Sonoma County  
Super. Ct. No. SCR577846)

After defendant Geoffrey Alan Petrizze was found competent to stand trial, he pleaded no contest to a felony violation of Penal Code section 496, subdivision (a).<sup>1</sup> He was placed on probation on the condition he serve one year in the county jail. In light of custody and conduct credits, he served no additional time following sentencing. His appellate counsel has raised no issues and asks this court for an independent review of the record to determine whether there are any issues that would, if resolved favorably to defendant, result in reversal or modification of the judgment. (*People v. Kelly* (2006) 40 Cal.4th 106; *People v. Wende* (1979) 25 Cal.3d 436.) Defendant was notified of his right to file a supplemental brief, but has not done so. Upon independent review of the record, we conclude no arguable issues are presented for review, and affirm the judgment.

**BACKGROUND**

On January 5, 2010, the owners of a vacation home in Jenner discovered defendant inside their home. When the police arrived, defendant told them he had

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<sup>1</sup> All further references are to the Penal Code unless otherwise indicated.

walked from San Francisco and stopped in front of the home when he saw an F-15 fighter jet flying along the coastline, which he took to be a sign that he should go no further. Defendant said he spent a day living in the yard and when it started to rain, he found the door unlocked and entered. He bathed, ate food that was in the house, and slept in the guest room. He claimed he left a drawing as a form of payment.

Defendant was arrested and on February 9, 2010, charged by felony complaint with residential burglary under section 459. It was further alleged that it was a serious felony offense under section 1192.7, subdivision (c), and a violent felony under section 667.5, subdivision (c). At arraignment, he was referred for a mental health evaluation. On April 20, 2010, defense counsel expressed doubts as to defendant's competency and requested a formal hearing.

On May 25, 2010, the hearing on defendant's competency commenced. The prosecution and defense submitted on the report prepared by Dr. Cushing, and the trial court found defendant incompetent to stand trial. Defendant did not, however, consent to medication. Accordingly, Dr. Donald Apostle was called to testify on that issue. The trial court found defendant lacked capacity to consent to medication, his mental disorder required treatment with medication, without treatment serious harm would result to defendant's mental and physical health, medication was unlikely to interfere with defendant's ability to assist in his defense, and less intrusive treatment was not likely to have the same beneficial results as antipsychotic medication. The trial court therefore authorized forcible medication if necessary pursuant to section 1370. On June 10, 2010, defendant was committed to Napa State Hospital.

On January 5, 2011, the trial court again found defendant mentally incompetent and criminal proceedings remained suspended. On February 9, 2011, another hearing was held at which Dr. Robin Broadman testified. The trial court again found defendant mentally incompetent and again made the requisite findings and authorized forcible medication if necessary. Defendant was committed to Napa State Hospital and transferred to Metropolitan State Hospital.

On August 17, 2011, the trial court received a certification of defendant's competence from Metropolitan State Hospital, and criminal proceedings were reinstated.

On September 9, 2011, the date set for the preliminary hearing, defendant entered a change of plea pursuant to a negotiated disposition. The prosecution amended the complaint to add a violation of section 496, subdivision (a), receiving stolen property (specifically, food). Defendant, in turn, pleaded no contest to the new count after completing a written change of plea form and being fully advised by the court on the record as to the rights he was waiving. Based on the defendant's responses in open court, the trial court found defendant had been duly advised by counsel and understood the change of plea form, and was freely, voluntarily and knowingly waiving his rights and entering into the negotiated disposition. On September 30, 2011, in accordance with the negotiated disposition, imposition of sentence was suspended, and defendant was placed on three years' probation on numerous terms and conditions, including that he serve one year in the county jail with credit for time served. He received a total of 747 custody and conduct credits. The court waived all fines and fees.

Defendant subsequently sought a certificate of probable cause, claiming "he should not have pleaded to a felony, because he was angry about the length of time he'd spent in custody and in Metropolitan State Hospital." He also claimed he was not guilty of a "felony," had he known the victims "were not pressing for a felony conviction," he would have proceeded to a preliminary hearing,<sup>2</sup> it "was unfair to pressure him with continued incarceration" unless he resolved the matter, and he "had too little time to discuss all the ramifications of [the] plea" with his attorney. The trial court granted defendant's request for a certificate, and on October 24, 2011, defendant filed a timely notice of appeal challenging "the validity of the plea or admission."

#### **DISCUSSION**

As a general rule, section 1237.5 precludes an appeal from a judgment of conviction after a plea of no contest or guilty unless the defendant has applied to the trial

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<sup>2</sup> The probation report stated the victims were pleased defendant had received medical treatment and were "fine" with defendant being placed on probation.

court for a certificate of probable cause for such an appeal and the trial court has issued such a document. (§ 1237.5.) Here, defendant obtained such a certificate and appeals as to “the validity of the plea or admission.” We therefore limit our review of the record to that issue.

As we have recited, defendant was represented by counsel at all times. At the time of his change of plea, defendant had reviewed with counsel and completed a written change of plea form. The trial court questioned defendant at length on the record as to whether he had read and understood the document and whether he had had adequate time to review the matter with his lawyer. Defendant replied that he had. The trial court also thoroughly voir dired defendant as to the terms of the proposed disposition and the rights he would be waiving by entering into it. Again, defendant readily and clearly confirmed that he understood the disposition and agreed to it. That defendant may not have subjectively believed he committed a “felony,” or was distressed by the fact he would remain in custody if the case proceeded to trial and the prospect of further incarceration in the event he was convicted as charged, does not undermine his knowing and voluntary waiver of rights and the validity of his no contest plea.

**DISPOSITION**

After a full review of the record, we find no arguable issues and affirm the judgment.

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Banke, J.

We concur:

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Margulies, Acting P. J.

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Dondero, J.