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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

JIMMY LEWIS ALEXANDER,

Defendant and Appellant.

A134462

(Solano County
Super. Ct. No. VCR189160)

Appellant Jimmy Lewis Alexander, also known as James Lewis Alexander, appeals from his plea, revocation of probation, and subsequent sentence for a single count of felony forgery (Pen. Code, § 470, subd. (d).) Appellant’s counsel has filed an opening brief in which no issues are raised, and asks this court for an independent review of the record as required by *People v. Wende* (1979) 25 Cal.3d 436. Counsel has declared that appellant has been notified that no issues were being raised by counsel on appeal, and that an independent review under *Wende* instead was being requested. Appellant was also advised of his right personally to file a supplemental brief raising any issues he chooses to bring to this court’s attention. No supplemental brief has been filed by appellant personally.

On April 11, 2007, appellant was charged in a criminal complaint filed by the Solano County District Attorney with three counts of forgery (Pen. Code, § 470, subd. (d)), and three counts of second degree commercial burglary (Pen. Code, § 459). He initially pleaded not guilty.

On June 15, 2007, appellant entered a change of plea, pleading guilty to one count of forgery. He was represented by counsel in connection with his plea, and he was advised of all applicable trial rights he was waiving by entering his plea. In return for his plea, the balance of the counts alleged in the complaint were dismissed by the prosecutor with a *Harvey* waiver.¹ The matter was referred to the probation department for a sentencing recommendation.

On July 16, 2007, sentencing was suspended, and appellant was granted three years formal probation, with conditions, including that he serve 120 days in county jail.

Thereafter, a notice of probation violation was filed alleging that appellant had failed to maintain contact with the probation department as required. On January 15, 2009, appellant admitted the probation violation. The court revoked probation, but then reinstated it with conditions, including that he serve an additional 12 days in custody, and that he pay victim restitution in the total amount of \$4,568.71.

On August 18, 2009, another notice of probation violation was filed for not maintaining contact with the probation department. Probation was subsequently revoked after appellant failed to appear in connection with the violation.

On December 28, 2011, the probation violation was heard by the court and found to be true. Probation was formally revoked. Although the probation department recommended that probation be reinstated, the court stated it was not inclined to follow that recommendation. The court noted that appellant had prior convictions, and that he had failed a prior attempt at delayed entry of judgment (DEJ), and a Proposition 36 program. The court noted also that appellant's repeated violations of the conditions of his probation indicated an unwillingness to follow the terms of probation. A further grant of probation was denied, and appellant was ordered to serve the midterm of two years in state prison for the underlying forgery conviction, less credit for time already served.

Conclusions Based Upon Independent Record Review

We discern no error in the plea disposition, or sentencing. The revocation of probation, and subsequent sentencing, including the sentencing choices made by the trial

¹ *People v. Harvey* (1979) 25 Cal.3d 754.

court, were supported by substantial evidence, and were well within the discretion of the trial court. The conditions of the original grants of probation, including fines and penalties imposed, were supported by the law and facts. At all times appellant was represented by counsel. Upon our independent review of the record we conclude there are no meritorious issues to be argued, or that require further briefing on appeal.

DISPOSITION

The judgment is affirmed.

RUVOLO, P. J.

We concur:

RIVERA, J.

SEPULVEDA, J.*

* Retired Associate Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.