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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.

HANK JOHNSON WHIPPLE,

Defendant and Appellant.

A134560

(Mendocino County
Super. Ct. No. SCUKCR1119940)

Hank Johnson Whipple (appellant) appeals from his plea and sentence for resisting an officer (Pen. Code, § 69), and his admission of a prior serious felony conviction, within the meaning of the state's Three Strike Law (Pen. Code, §§ 667, 1170.12).

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 submitted a declaration indicating appellant was apprised that no issues were being raised by counsel on appeal, and that an independent review under *Wende* instead was being requested. Counsel also advised appellant of his right personally to file a supplemental brief raising any issues he chooses to bring to this court's attention, but he did not do so.

Appellant was originally charged by the Mendocino County District Attorney in a criminal complaint filed on December 23, 2011, with one count of resisting an officer (Pen. Code, § 69). The complaint also alleged that appellant had a prior serious felony conviction, within the meaning of the state's Three Strike Law (Pen. Code, §§ 667, 1170.12), and that he had served a prior prison term (*id.* at § 667.5, subd. (b)).

After entering a plea of not guilty on January 11, 2012, appellant entered a change of plea, pleading guilty to one count of resisting an officer (Pen. Code, § 69), and admitting the prior serious felony conviction allegation. In return, it was agreed that he would receive a sentence of not more than 32 months in state prison. At the time of taking the plea, appellant was advised of the constitutional rights he would be waiving by entering the plea, and the trial court found that his plea was knowingly and voluntarily entered. Appellant also entered an *Arbuckle* waiver (*People v. Arbuckle* (1978) 22 Cal.3d 749), allowing a different judge to sentence him than the judge who took his plea.

On January 27, 2012, appellant was sentenced to 16 months in state prison on his conviction of resisting an officer, which was doubled based on the admitted prior strike, for an aggregate term of 32 months in state prison. Fees, penalties, and restitution allowed by law were also imposed.

Conclusions Based Upon Independent Record Review

We discern no error in the plea disposition or sentencing. The sentence imposed was consistent with the negotiated disposition accepted by appellant, and the 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:

REARDON, 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.