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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.

JOHN ROY HOGSETT,

Defendant and Appellant.

A134855

**(Lake County
Super. Ct. Nos. CR926210,
CR927226, CR927227)**

Defendant John Roy Hogsett appeals from a judgment sentencing him to prison after he pled no contest to new charges and admitted a probation violation in a felony case. His court-appointed counsel has filed a brief raising no issues, but seeking our independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *Anders v. California* (1967) 386 U.S. 738 (*Anders*). We find no arguable issues and affirm.

I. FACTS AND PROCEDURAL HISTORY

In 2010, defendant burglarized a home and took over \$5,000 worth of property after his girlfriend told him the owners were on vacation. On another occasion, he used his position as a housekeeper/maintenance man at a hotel to enter a guest's room and steal a laptop computer. Based on these acts, criminal charges were filed in the Sonoma County Superior Court. On February 26, 2010, defendant pled no contest to first degree residential burglary, commercial burglary, and receiving stolen property, and was placed

on felony probation. (Pen. Code, §§ 459, 460, 496, subd. (a).) Probation supervision was later transferred to Lake County (Case No. CR926210).

On July 1, 2011, defendant was arrested for driving under the influence of alcohol and/or drugs. On July 22, 2011, officers conducted a probation search of defendant's home and found a shotgun, concentrated cannabis, and dried marijuana on the premises.

The Lake County District Attorney charged defendant with misdemeanor counts of driving under the influence, driving with a blood alcohol level of over .08 percent, and driving on a suspended license. (Veh. Code, §§ 23152, subds. (a) & (b), 14601.2, subd. (a).) (Case No. CR927227.) In a separate proceeding, defendant was charged with a felony count of a felon in possession of a firearm, along with an allegation that he had suffered a prior conviction under the Three Strikes law. (Pen. Code, §§ 12021, subd. (a), 1170.12.) (Case No. CR 927226.) The Lake County Probation Department filed an affidavit seeking to revoke defendant's probation in the burglary case based on the conduct underlying these new charges.

Defendant pled no contest to a single charge of driving under the influence in Case No. CR927227 and admitted as part of his plea that he had violated his probation on the burglary charges in Case No. CR926210. He also pled no contest to the felon-in-possession charge in Case No. CR927226 and admitted the "strike" allegation, in exchange for an agreed-upon sentence of two years eight months in prison on that charge. Based on defendant's plea in the driving-under-the-influence case, as well as his conduct in the felon-in-possession case, the court revoked his probation in the burglary case.

Following these pleas and admissions, the court held a consolidated sentencing hearing and imposed an eight-year prison sentence consisting of the six-year upper term on the residential burglary count in Case No. CR926210, a consecutive term of eight months (one-third the middle term) for the commercial burglary count in Case No. CR926210, and a consecutive term of 16 months (one-third the middle term, doubled under the Three Strikes law) for the felon-in-possession count in Case No. CR927226. Concurrent terms were imposed on the remaining counts.

II. DISCUSSION

As required by *People v. Kelly* (2006) 40 Cal.4th 106, 124, we affirmatively note that appointed counsel has filed a *Wende/Anders* brief raising no issues, that defendant has been advised of his right to file a supplemental brief, and that he has not filed such a brief. We have independently reviewed the entire record for potential error and find none.

Defendant does not challenge the validity of his plea to any of the charges and has not obtained a certificate of probable cause under Penal Code section 1237.5. The prison sentence imposed by the court was authorized by law, and the court did not abuse its discretion when it declined to reinstate probation in the burglary case following multiple violations. (See *People v. Downey* (2000) 82 Cal.App.4th 899, 909.) Defendant did not object to any of the reasons cited by the court for imposing the upper term on the principal count or consecutive sentences on the subordinate counts. (*People v. Scott* (1994) 9 Cal.4th 331, 356.) The 16-month term imposed on the felon-in-possession count did not exceed the sentence that was indicated on that charge when defendant entered his plea.

We are satisfied that defendant's appointed attorney has fully complied with the responsibilities of appellate counsel and that no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 283.)

III. *DISPOSITION*

The judgment is affirmed.

NEEDHAM, J.

We concur.

SIMONS, Acting P. J.

BRUINIERS, J.