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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

THOMAS GUNSALUS,

Defendant and Appellant.

A135520

(Napa County
Super. Ct. Nos. CR159117, CR159743,
CR160216, CR160352, CR160388)

Defendant Thomas Gunsalus appeals after entering into negotiated plea agreements in five separate cases pending against him. His appointed counsel has asked this court to independently examine the records in accordance with *People v. Wende* (1979) 25 Cal.3d 436, to determine if there are any arguable issues that require briefing. Defendant was apprised of his right to file a supplemental brief, but he did not do so. We have conducted our review, conclude there are no arguable issues that require briefing, and affirm.

BACKGROUND

Case No. CR159117

On October 18, 2011, defendant was involved in an altercation with his ex-girlfriend. The victim told the police that defendant had pushed her down but that she did not suffer any injuries. During a pat search for weapons, defendant volunteered that he had marijuana in his pocket. The officer also found brass knuckles and a knife in defendant's pocket. Defendant was on probation at the time.

Defendant was charged with possession of a deadly weapon (Pen. Code, § 12020, subd. (a)(1)¹); carrying a dirk and dagger (§ 12020, subd. (a)(4)); misdemeanor battery domestic violence (§ 243, subd. (e)(1)); and possession of marijuana (Health & Saf. Code, § 11357, subd. (b)). It was also alleged that defendant had three prison priors (§ 667.5, subd. (b)) and three prior felonies (§ 1203, subd. (e)(4)).

On November 2, 2011, defendant pleaded no contest to misdemeanor possession of a deadly weapon and to an added count of petty theft. He was placed on three years formal probation with 30 days in jail and domestic violence terms.

On December 6, 2011 and February 3, 2012, the district attorney filed petitions to revoke defendant's probation on the ground that he had failed to obey all laws.

Case No. CR159743

On October 1, 2011, the Napa Police Department received a report of a theft at a home in Napa. Sam Aldridge, the reporting party, explained that she was a friend of the victim, Doug Bacca, who used to live at the home with defendant. Bacca had suffered a major head injury and had been hospitalized. While he was in the hospital, he had been evicted. Bacca asked Aldridge to return to the home to retrieve his belongs, and when she did, she discovered that a number of Bacca's possessions were missing. The missing items included two guitars; a trumpet; jars of buffalo nickels, half silver dollars, silver Merced dimes, and silver quarters; and \$400 in cash. Aldridge told the police that she believed defendant had either sold Bacca's possessions at garage sales or had hocked them. The manager of a Vallejo pawn shop subsequently confirmed that defendant had pawned the instruments.

On December 3, 2011, police officers contacted defendant to speak to him about the case. He was then arrested for violating a restraining order.

On December 6, 2011, defendant was charged with receiving stolen property (§ 496, subd. (a)) and grand theft (§ 487, subd. (a)).

¹ All subsequent statutory references are to the Penal Code except as otherwise noted.

Case No. CR160216

On August 4, 2011, defendant went to the Department of Motor Vehicles (DMV) to transfer ownership of his 1993 Harley Davidson motorcycle to Sandra Joan Chaussee in lieu of \$200 rent he owed her. On the paperwork, he represented under penalty of perjury that he had “lost” the certificate of title to the Harley. Unbeknownst to Chaussee, defendant had previously signed the Harley over to Anne Sam R. Aldridge Bail Bonds as collateral and had given Aldridge the original certificate of title.

On August 19, 2011, Aldridge went to the DMV to have her company’s name added to the certificate of title as a lien holder. She was told that defendant was no longer the registered owner of the Harley. Aldridge filed a complaint with the DMV, which conducted an investigation that it later forwarded to the Napa County District Attorney’s Office.

On January 17, 2012, defendant was charged with perjury (§ 118, subd. (a)); burglary (§ 459); and procuring and offering a false or forged instrument (§ 115, subd. (a)).

Case No. CR160352

On January 21, 2012, defendant was involved in another altercation with his girlfriend. Although they had been dating for three years, they had restraining orders against each other. His girlfriend had been at home and when she went outside, she saw defendant sitting in a pickup truck just down the street from her house. Defendant told her to get in the car because he wanted to talk to her and, though telling him she did not want to, she complied. As soon as she got into the car, defendant started yelling at her because he thought she was seeing someone else. The victim’s two daughters and one of their boyfriends came outside, and she yelled at them to get the license plate number and call the police. When defendant drove away with her still in his car, the victim grabbed the keys from the ignition and threw them out the window. After the car came to a stop, defendant started punching the victim in the face and then grabbed her by her hair and pulled her from the truck. Once outside, he began hitting and kicking her. When her

daughters intervened, defendant fled. The police responded to the scene, but they were unable to locate defendant.

On February 1, 2012, defendant was charged with felony corporal injury to a spouse or cohabitant (§ 273.5, subd. (a)) and disobeying a domestic relations court order (§ 273.6, subd. (a)), with allegations that he had three prior felony convictions.

Case No. CR160388

On February 4, 2012, officers from the Napa Police Department were on routine patrol in a marked police car when they spotted defendant driving down the street in a pickup truck. They recognized him from prior police contacts and knew that he was on probation with search and seizure terms and had a suspended driver's license. After defendant failed to make a complete stop at an intersection, the officers initiated a traffic stop. While speaking with defendant, they noticed he was extremely nervous and fidgety and was sweating profusely despite the cold weather. During a probation search of the truck, the officers found a package of methamphetamine.

On February 7, 2012, defendant was charged with possession of a controlled substance (Health & Saf. Code, § 11377, subd. (a)) while on bail and with two prior felony convictions, and driving on a license suspended due to a prior DUI conviction (Veh. Code, § 14601.2, subd. (a)), with a prior conviction for driving on a suspended license.

Plea Bargain

On March 19, 2012, defendant entered into plea bargains resolving all pending cases.

In case no. CR159117, defendant admitted the probation violation.

In case no. CR159743, defendant pleaded no contest to receiving stolen property and admitted a prison prior.

In case no. CR160216, defendant pleaded no contest to falsifying or forging a document.

In case no. CR160352, defendant pleaded no contest to inflicting corporal injury on a cohabitant, which was reduced to a misdemeanor pursuant to section 17, subdivision (b).

In case no. CR160388, defendant pleaded no contest to possession and driving on a suspended license and admitted the special allegations.

Sentencing

On April 24, 2012, the trial court sentenced defendant in all five cases.²

In case no. CR159117, the court ordered probation terminated.

In case no. CR159743, the court sentenced defendant to the midterm of two years plus one year consecutive for the prison prior, for an aggregate term of three years to be served in the county jail, with half time credits and 18 months of the sentence suspended, to be served on mandatory supervision. The court awarded 77 days credit for time served plus 77 days conduct credit, for a total of 154 days credit.

In case no. CR160216, the court sentenced defendant to eight months (one-third the midterm), to be served consecutively to the sentence in case no. 159743 and in the county jail pursuant to section 1170, subdivision (h)(5). The court awarded two days credit for time served plus two days conduct credit, for a total of four days credit.

In case no. CR160352, the court granted probation and issued a criminal protective order.

In case no. CR160388, the court placed defendant on three years probation pursuant to Proposition 36.

This timely appeal followed.

DISCUSSION

The scope of reviewable issues on appeal after a plea of no contest is restricted to matters based on constitutional, jurisdictional, or other grounds going to the legality of the proceedings leading to the plea; guilt or innocence are not included. (*People v.*

² The court also ordered probation revoked and terminated in an additional case involving a charge of driving on a suspended license (case no. CR152122). Defendant appealed that order to the Appellate Department of the Napa County Superior Court.

DeVaughn (1977) 18 Cal.3d 889, 895-896.) We conclude there were no arguable irregularities in the proceedings. Defendant's guilty pleas complied with *Boykin v. Alabama* (1969) 395 U.S. 238 and *In re Tahl* (1969) 1 Cal.3d 122. He was represented by competent counsel who zealously guarded his rights and interests. The sentences imposed were authorized by law.

Our independent review having found no arguable issues that require briefing, the judgment of conviction is affirmed.

Richman, J.

We concur:

Haerle, Acting P.J.

Lambden, J.