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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.

MATTHEW C. MOATS,

Defendant and Appellant.

A138327

(Sonoma County
Super. Ct. No. SCR567689)

I. INTRODUCTION

In 2009, appellant, then age 20, pled guilty to one count of first degree residential burglary. (Pen. Code, § 459.) The court suspended imposition of the sentence and placed appellant on probation. After two violations of probation, but subsequent reinstatement thereof in 2011 and 2012, earlier this year appellant was found to have violated probation for the third time. The trial court then revoked probation and sentenced appellant to the six-year maximum term provided under the 2009 plea agreement. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), appellant appeals from the sentence imposed or from other matters occurring after his entry of his guilty plea. Finding no error in that or any other regard, we affirm the judgment of the trial court, including the sentence imposed.

II. FACTUAL AND PROCEDURAL BACKGROUND

Early in the morning of August 27, 2009, Luke and Benita Crawford, residents of a home on Surrey Drive in Sonoma County were awakened by the presence in their home of appellant, apparently intoxicated and bleeding from his face. The Crawfords called the

police who, when they arrived at their residence, found appellant hiding in a utility truck parked nearby. He had lacerations below both of his eyes, both of which appeared bloodshot and watery, was emanating alcoholic odor and slurring his words. He was unable to explain to the officers why he had been inside the Crawford residence or how he had been injured. The officers also found a keychain containing three keys and belonging to Mrs. Crawford on appellant's person. The officers arrested appellant.

Four days later on August 31, 2009, a felony complaint was filed charging appellant with one count of first degree residential burglary in violation of Penal Code section 459. The complaint also included two special allegations, i.e., that in committing the burglary, appellant had violated Penal Code sections 462, subdivision (a) and 667.5, subdivision (c).

On October 1, 2009, appellant pled guilty to that charge, admitted both of the charged special allegations, and stipulated that there was a factual basis for the plea; his trial counsel joined in that stipulation, and the court found to the same effect. The plea agreement agreed to by appellant provided for a maximum prison term of six (6) years.

On November 13, 2009, the trial court suspended imposition of any sentence and placed appellant on probation for a period of 36 months.

On March 28, 2011, the district attorney filed an allegation that appellant had violated probation. A hearing was held on this charge on April 1, 2011; appellant waived his right to a hearing and admitted the alleged probation violation; the trial court reinstated probation on April 22, 2011.

On August 17, 2012, the trial court summarily revoked probation and, again, appellant both waived his right to a hearing and admitted the violation of probation charged.

On November 7, 2012, the court imposed, pursuant to a stipulation agreed to by both appellant and his counsel, an upper term of six years in prison; however, it then suspended execution of that sentence and again reinstated appellant on probation, on the understanding that appellant would be immediately enrolling in the Delancey Street program to address his drug problems.

However, once again, on January 15, 2013, probation was summarily revoked. At a hearing ten days later, appellant admitted the alleged probation violation and waived his right to a hearing; the court found appellant to be, once again, in violation of probation.

On March 22, 2013, the Sonoma County Public Defender filed a brief on appellant's behalf asking the court to consider allowing appellant to continue his "participation in treatment and behavior modification" for his long-standing drug abuse problems. Appellant also submitted a hand-written letter to the court.

On March 26, 2013, appellant appeared before the trial court for sentencing. He was allowed to personally address the court regarding his problems. Nonetheless, the court found that appellant had "squandered" three separate alternative programs, including Turning Point, Starting Point, and Delancey Street—especially regarding the latter, which—per the trial court—he apparently left "[a]fter two days." The court thus sentenced appellant to the previously agreed-to six-year term in state prison, awarding him a total of 486 days of sentence credit.

On April 2, 2013, appellant filed a timely notice of appeal, stating that his appeal was based on the sentence imposed or on other matters occurring after the entry of his plea that did not effect the validity of the plea.

III. DISCUSSION

Where, as here, an appellant has pled guilty or no contest to an offense, the scope of reviewable issues 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. DeVaughn* (1977) 18 Cal.3d 889, 895-896.)

Accordingly, our review of the record discloses no reviewable issues in connection with: (1) appellant's initial plea of guilty to the charge of first degree residential burglary, (2) his admission to the two charged special allegations, or (3) the trial court's findings that he had violated the terms and conditions of probation three times in the 2011-2013 period.

The admonitions given appellant at the time he entered his plea fully conformed with the requirements of *Boykin v. Alabama* (1969) 395 U.S. 238 and *In re Tahl* (1969) 1

Cal.3d 122, and nothing in the record before us indicates appellant was mentally incompetent to stand trial or to understand the admonitions he received from the court. Appellant was at all times represented by competent counsel who protected his rights and interests.

The record provides a factual basis for appellant's knowing and voluntary plea and our independent review has disclosed no arguable issues that require further briefing. Finally, we conclude the sentence imposed by the trial court was authorized by law.

IV. DISPOSITION

The trial court's judgment, including the sentence imposed, is affirmed.

Haerle, J.

We concur:

Kline, P.J.

Lambden, J.