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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.

JOSHUA KENNETH BRINGAZI,

Defendant and Appellant.

A140686

**(San Mateo County
Super. Ct. No. BR079556A)**

On November 15, 2013, appellant Joshua Kenneth Bringazi boarded a Caltrain in San Mateo, California. When the conductor asked him for his ticket, Bringazi was unable to produce one. Bringazi got off the train at the next station to purchase a ticket, leaving some personal items on the train, but he was unable to get back on the train before the doors closed.

A short time later the conductor discovered Bringazi was riding on the outside of the train hanging between two cars. The train stopped and Bringazi attempted to get on board but the conductor refused to open the doors. For approximately 10 minutes Bringazi climbed on and off the stopped train and tried to get the conductor to open the doors. The conductor refused and Bringazi eventually gave up.

While Bringazi was trying to get back on board the train, the conductor told him he could reclaim his property at the Caltrain office at Fourth and King Streets in San Francisco. Bringazi was subsequently arrested at that location when the police responded to a report of a disturbance. During a search of Bringazi's wallet, an officer discovered a

membership card for the Pacifica Athletic Club issued to Dan Hardman. Mr. Hardman had lost the card at the athletic club, did not know Bringazi and did not give him permission to have the card.

On November 26, 2013, the California Department of Corrections and Rehabilitation's Division of Adult Parole Operations filed a petition for revocation of parole pursuant to Penal Code section 3000.08, subdivision (f).¹ The petition alleged four violations of the terms of Bringazi's parole. Violation One alleged Bringazi had evaded the payment of fare while traveling on a railroad in violation of section 587c. Violation Two alleged unauthorized climbing upon or holding on to a railroad train in violation of section 587b. Violation Three alleged a disturbance of the peace.² Violation Four alleged misappropriation of lost property in violation of section 485.

A contested hearing on the petition was held on December 20, 2013. After hearing all the evidence the court found Bringazi had violated his parole as alleged in Violations One and Two, but it found the People had failed to prove the allegations in Violations Three and Four. The trial court ordered that Bringazi serve 180 days in jail and reinstated his parole on the terms previously imposed. He was awarded 72 days of presentence credits: 36 days of actual custody credits and 36 days of conduct credits pursuant to section 4019.

Bringazi filed a notice of appeal on January 7, 2014.

On May 13, 2014, appointed counsel submitted a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, certifying that he has been unable to identify any issues for appellate review. Counsel has also submitted a declaration affirming that he has advised Bringazi of his right to file a supplemental brief raising any points which he wishes to call to the court's attention. No supplemental brief has been submitted.

¹ All statutory references are to the Penal Code.

² The petition cited no specific section of the Penal Code in connection with this violation.

DISCUSSION

As required, we have independently reviewed the entire record and found no arguable issues.³ (*People v. Kelly* (2006) 40 Cal.4th 106, 109-110.)

After considering the evidence, the trial court imposed the maximum penalty permitted by law. (§ 3000.08, subd. (g) [confinement may not exceed 180 days in county jail].) This penalty exceeded the parole agent’s recommendation of 135 days return to custody. In its ruling, the court explained it had reviewed Bringazi’s prior history of parole violations, and this was his fifth. It opined he was not learning from his prior violations, and it therefore imposed a penalty of 180 days in custody. The trial court’s findings are supported by substantial evidence, and we cannot say the trial court abused its discretion in imposing the maximum penalty permitted by law. (See *People v. Urke* (2011) 197 Cal.App.4th 766, 773 [appellate court will reverse trial court’s exercise of discretion in revoking probation only in extreme cases].)

DISPOSITION

The order from which the appeal is taken is affirmed.

Jones, P.J.

We concur:

Simons, J.

Needham, J.

³ In his brief, appellate counsel states he is providing “information about claims appearing in the record . . . to assist this Court [in] conduct[ing] its independent review[.]” Counsel then appears to suggest that we examine two issues. We decline to do so. (See *People v. Hernandez* (July 29, 2014, G049024) ___ Cal.Rptr.3d ___ [2014 WL 3722747].) We reject *Wende* briefs “presenting ‘ ‘ ‘arguable-but-unmeritorious’ issue[s].’ ” (*Ibid.*)