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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.

DONALD PAUL ALEXIUS,

Defendant and Appellant.

A142313

(Lake County
Super. Ct. No. CR932497)

Defendant Donald Paul Alexius appeals from his conviction and resulting sentence. The conviction followed defendant's no contest plea to a felony violation of Penal Code¹ section 29800, subdivision (a), felon in possession of a firearm, and his admission to a March 2004 prior strike conviction.

Defendant'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 (*Wende*). Counsel has declared that defendant has been notified that no issues were being raised by counsel on appeal, and that an independent review under *Wende* instead was being requested. Defendant was also advised of his right personally to file a supplemental brief raising any issues he chooses to bring to this court's attention. No supplemental brief has been filed by defendant personally.

¹ All further statutory references are to the Penal Code, unless otherwise indicated.

We have reviewed the whole record pursuant to *Wende, supra*, 25 Cal.3d 436 and *People v. Kelly* (2006) 40 Cal.4th 106, focusing upon grounds for appeal arising after entry of the plea. Having done so, we conclude that there is no arguable issue on appeal.

Procedural and Material Factual Background of Case

Defendant was charged by information dated January 30, 2014, with being a felon in possession of a firearm (§ 29800, subd. (a)), and unlawful possession of ammunition (§ 30305, subd. (a)(1)). The information also alleged, pursuant to section 667, subdivisions (b) - (i), that defendant had suffered a prior strike conviction (§§ 207, 245, subd. (a)(1)) in March 2004. The defense filed a motion to suppress, which the prosecution opposed. Following a hearing on the motion to suppress, the court found that defendant had been illegally detained, and ordered evidence found on him and his statements made while detained suppressed.

On April 23, 2014, defendant completed a written plea waiver form and entered a no contest plea to the charge of felon in possession of a firearm. Defendant also admitted the prior strike conviction. In doing so, defendant voluntarily and knowingly waived his constitutional protections and rights with regard to the charge, including a recognition that he faced a maximum of six years in state prison in connection with the plea. In return, the prosecutor dismissed the remaining charge in the information, as well as a separate pending case against defendant.

At sentencing on June 9, 2014, pursuant to the terms of the plea agreement, the court denied probation and imposed a 16-month prison term for the felon in possession of a firearm offense, doubled by virtue of the prior strike conviction to two years eight months. Other fines and conditions were imposed as recorded in the record, and defendant was given one day of actual custody credit against his term. A timely notice of appeal was filed on June 30, 2014.

Conclusions Based Upon Independent Record Review

Upon our independent review of the record, we conclude there are no meritorious issues to be argued, or that require further briefing on appeal.

We also discern no error in the plea disposition or in sentencing. The sentence defendant received, and the restitution fines, and conditions imposed were supported by the law and facts. At all times defendant was represented by counsel.

DISPOSITION

The judgment is affirmed.

Bolanos, J.*

We concur:

Reardon, Acting P.J.

Rivera, J.

* Judge of the San Francisco City and County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.