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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

JONATHAN MARTIN SALES,

Defendant and Appellant.

A142890

(Sonoma County  
Super. Ct. No. SCR-640206)

After defendant violated the terms of his felony probation, pursuant to a negotiated disposition, the trial court terminated probation and imposed the previously suspended three-year sentence. Defendant filed a timely appeal. As required under *People v. Kelly* (2006) 40 Cal.4th 106, 124, we affirmatively note counsel for defendant has filed a *Wende* brief (*People v. Wende* (1979) 25 Cal.3d 436) raising no arguable issues, counsel apprised defendant of his right to file a supplemental brief, and defendant did not file such a brief. Upon review of the record for potential error, we conclude no arguable issues are presented for review and affirm the judgment.

**FACTUAL AND PROCEDURAL BACKGROUND<sup>1</sup>**

On September 16, 2013, defendant forced open the doors of the Santa Rosa Junior College culinary arts building and attempted to steal property before he was interrupted by campus personnel. In the course of the burglary, defendant damaged the building and computers.

<sup>1</sup> The statement of facts is taken from the May 29, 2014 sentencing report and the July 11, 2014 request for summary revocation of probation.

Defendant was charged in a felony complaint on September 18, 2013, with one count of commercial burglary (Pen. Code, § 459) and one count of vandalism (Pen. Code, § 594, subd. (a)).<sup>2</sup>

The following month, pursuant to a negotiated agreement, defendant pled no contest to felony commercial burglary and the vandalism charge was dismissed. Defendant was subsequently placed on 48 months of supervised probation with various conditions of probation including, “Be of good conduct, obey all laws, obey all court orders.” He was ordered to serve 90 days with zero credits in Sonoma County jail, but if a bed became available in the TASC residential drug treatment program prior to completion of his sentence, defendant could be released to a TASC authorized representative.

On April 22, 2014, defendant admitted he had violated probation by failing to be of good conduct and obey all laws and failing to complete the TASC program.

At a hearing held on May 29, 2014, defendant waived all prior custody credits totaling 328 days. The court then reinstated probation, and imposed but suspended execution of the aggravated term of three years, pursuant to Penal Code section 1170, subdivision (h).<sup>3</sup> The court also ordered defendant’s release from custody on July 1, to report to probation and begin drug treatment as “directed by probation.”

Less than two months later, however, defendant’s probation was summarily revoked after he entered Macy’s at the Santa Rosa Plaza, selected a bottle of cologne, concealed it on his person, and left the store without paying.

After the parties negotiated an agreed upon disposition of the matter, on July 22, 2014, defendant pled no contest in the new case to misdemeanor petty theft with a prior

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<sup>2</sup> This was not defendant’s first contact with the criminal justice system. He has an extensive record of misdemeanor convictions involving thefts, burglaries, and substance abuse offenses dating back to 2008.

<sup>3</sup> Penal Code section 1170, subdivision (h) provides where the term of imprisonment is not specified in the underlying offense, the sentence shall be 16 months, or two or three years. Because the term of imprisonment is not specified for commercial burglary, the court could impose the three-year aggravated term.

conviction. The court found defendant in violation of probation, terminated probation, and sentenced defendant to serve three years with custody credits of 93 days on the underlying commercial burglary offense.

**DISCUSSION**

Upon review of the record, we discern no arguable issues.

Defendant was ably represented by counsel at all times during the probation revocation proceedings.

After defendant’s first probation violation, the court reinstated probation and directed him to contact probation to begin a drug treatment program. Yet less than two months later, his probation was once again revoked because he committed theft. The court gave defendant ample opportunity to successfully complete probation by instructing him to enter a substance abuse program. When defendant, however, committed another offense, the court acted well within its discretion in terminating probation and sentencing him to the previously agreed upon sentence of three years.

We find no meritorious sentencing errors.

**DISPOSITION**

The judgment is affirmed.

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Margulies, Acting P.J.

We concur:

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Dondero, J.

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Banke, J.