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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.

CRAIG PATRICK BELSHAW,

Defendant and Appellant.

A146727

(Sonoma County
Super. Ct. No. SCR654804)

Craig Patrick Belshaw (appellant) appeals from his plea of no contest to a charge of felony driving with a blood-alcohol level of .08 percent or higher (Veh. Code,¹ § 23152, subd. (b)) and the resultant sentence he received in the above-referenced criminal case.

Appellant'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. Counsel has declared that appellant has been notified that no issues were being raised by counsel on appeal, and that an independent review under *Wende* instead was being requested. Appellant 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 appellant personally.

We note that appellant has not obtained a certificate of probable cause, which is required by Penal Code section 1237.5 when a defendant seeks to appeal from a

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

judgment entered following a guilty or no contest plea. A certificate is not required when the notice of appeal states, as appellant's does here, that the appeal is based upon the sentence or other matters occurring after the plea that do not affect the validity of the plea. Accordingly, we have reviewed the whole record pursuant to *People v. 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

Following a traffic collision that occurred on August 12, 2014, in which a vehicle being driven by appellant rear-ended the vehicle of Tracey Moody on Highway 101, the Sonoma County District Attorney filed a felony complaint on August 14, 2014, charging appellant with one count each of driving under the influence of alcohol (§ 23152, subd. (a)); driving with a .08 or higher percentage blood-alcohol content (§ 23152, subd. (b)); and driving with a suspended license, a misdemeanor (§ 14601.5, subd. (a)). As enhancements, the complaint further alleged that appellant had three prior convictions for driving under the influence (§§ 23152, subd. (a), 23103.5), and two prior convictions for driving with a suspended license (§§ 14601.5, 14601.1). Initially, appellant entered a plea of not guilty to all of the charges.

On October 23, 2014, appellant changed his plea and pleaded no contest to felony driving with a .08 or higher percentage blood-alcohol content (§ 23152, subd. (b)), and the court granted the prosecutor's motion to dismiss the remaining counts and allegations in the interests of justice. Appellant's plea was "open," and sentencing was scheduled to take place on December 11, 2014.

Sentencing did not actually take place until August 4, 2015.² The court denied probation and sentenced appellant to two years in county jail, pursuant to Penal Code section 1170, subdivision (h), with 99 days of actual custody credit and 98 days of good conduct credit awarded.

² At the time he entered his plea, appellant also waived time for sentencing.

A restitution hearing commenced on September 16, 2015, and was completed on November 4, 2015. At the conclusion of the hearing, the court ordered appellant to pay \$2,330 in restitution to Moody.

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 appellant received, and the restitution fines, penalties, and conditions imposed were supported by the law and facts. At all times appellant was represented by counsel.

DISPOSITION

The judgment is affirmed.

RUVOLO, P. J.

We concur:

RIVERA, J.

STREETER, J.