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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.

BRODERICK JAMES WARFIELD,

Defendant and Appellant.

A147677

(Solano County Super Ct.  
Case No. FCR302238)

Appellant Broderick Warfield appeals from a final judgment entered following a contested hearing on an alleged violation of his formal probation. 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 have reviewed the entire record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, and conclude that there is no arguable issue on appeal.

### **Procedural and Material Factual Background of Case**

On September 13, 2013, the Solano County District Attorney's Office filed an information charging appellant with one felony count of carrying a dirk or dagger concealed upon his person (Pen. Code,<sup>1</sup> § 21310).

On September 27, 2013, appellant entered a plea of no contest to the charge with the understanding the court would impose probation, and he would receive a sentence of no longer than 180 days in custody. The plea was accepted, and at a subsequent hearing the trial court suspended sentencing and imposed three years formal probation, subject to appellant serving 90 days in county jail. Other fines, penalties, and conditions of probation were imposed.

Thereafter, on June 10, 2014, the Solano County District Attorney filed a request to calendar appellant for revocation of probation for an alleged violation of Health and Safety Code section 11364.1, subdivision (a) (possession of a device for smoking controlled substances). Appellant admitted that he violated the term of probation that he obey all laws. The court reinstated probation with the added condition that appellant not use or possess illegal drugs, and that he complete a substance abuse program.<sup>2</sup>

On February 23, 2015, appellant admitted a subsequent claim that he violated the terms of his probation by failing to abstain from the use of alcohol. Probation was thereafter reinstated with the modification that appellant attend three Narcotics Anonymous/Alcoholics Anonymous or other 12-step meetings each week for the subsequent three months. He was also remanded to county jail to serve 21 days in custody (11 actual days and 10 days of credit).

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<sup>1</sup> All further statutory references are to the Penal Code, unless otherwise indicated.

<sup>2</sup> The original grant of probation included a condition that appellant not use alcohol.

On January 12, 2016,<sup>3</sup> the Solano County District Attorney filed a request to revoke appellant's probation for a violation of section 488 (petty theft). A hearing was held on February 1, at which Fairfield Police Sergeant Josh Cresha testified as follows:

On January 10, Cresha conducted a bike sting operation in the city of Fairfield by leaving a bike that belonged to the police department outside of a 7-Eleven store while he waited in an unmarked police car watching the bicycle. After 10 minutes, appellant came out of the 7-Eleven, looked around the bike, touched its handle bars, checked its tires and asked another male whose bike it was. The unidentified male said it belonged to a "white guy." Appellant got on his own bike and, using his free hand, lifted the bike Cresha had left outside the 7-Eleven. Appellant then rode out of the parking lot onto East Tabor Avenue carrying the bike in his hand. Cresha radioed two uniformed officers in marked patrol cars, and gave them appellant's physical description and location. The officers stopped appellant about 400 feet from the 7-Eleven.

The court found by a preponderance of the evidence that appellant was in violation of his probation for failing to obey all laws. Appellant requested that he be released on bail because he had a job offer as an architectural engineer, had completed the Healthy Partnership Program, and had paid all his fines. The court set bail at \$50,000, and continued the hearing to February 29 for receipt of a supplemental report and recommendation from the probation department.

At the conclusion of the hearing on February 29, the court revoked appellant's probation. He was sentenced to serve 90 days in county jail with credits for 45 days, and his probation was to be terminated unsuccessfully upon his release from jail.

### **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. The court's finding that appellant violated his probation was supported by substantial evidence, and we discern no error in the sentencing, or abuse of discretion in setting his bail at \$50,000. At all times appellant was represented by counsel.

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<sup>3</sup> All subsequent date references are to the year 2016.

**DISPOSITION**

The judgment is affirmed.

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RUVOLO, P. J.

We concur:

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REARDON, J.

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STREETER, J.