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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

NATHAN ALAN MARTIN,

Defendant and Appellant.

2d Crim. No. B247538
(Super. Ct. No. F442055)
(San Luis Obispo County)

Nathan Alan Martin appeals from the order revoking his probation and sentencing him to a two-year prison term following his nolo contendere plea to possession of heroin for sale. (Health & Saf. Code, § 11351.)

On December 28, 2009, officers searched appellant's residence pursuant to a warrant, and found marijuana, two scales, baggies, and other drug paraphernalia. They also found 7.8 grams of heroin and \$230 cash in appellant's pants pockets.

In February 2011, appellant pleaded nolo contendere to possession of heroin for sale. His plea followed his failure to appear and bench warrant arrest. In March, the trial court suspended the imposition of sentence and placed appellant on formal probation, with several conditions, including serving 180 days in county jail, and spending six months in a residential drug treatment program.

During the following 16 months, appellant violated the terms of his probation twice, and admitted each violation. On the first occasion, the trial court

reinstated probation and ordered that appellant serve 30 days in jail and be released to a drug treatment program. On the second occasion, the trial court revoked probation and sentenced him to state prison for the low base term which it erroneously believed to be 16 months for possession of heroin for sale. (Health & Saf. Code, § 11351.) Four months later, and having recognized its sentence was void and in excess of its jurisdiction, the trial court resentenced appellant to two years in state prison, the correct low term. (*In re Robinson* (1956) 142 Cal.App.2d 484, 486.)

We appointed counsel to represent appellant on this appeal. After examining the record, counsel filed an opening brief raising no issues and requesting that this court independently examine the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

We advised appellant that he had 30 days in which to submit a written brief or letter raising any contentions or arguments he wished us to consider. He did not respond.

We have examined the entire record. We are satisfied that appellant's counsel has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

The judgment (order revoking probation) is affirmed.

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PERREN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

Jacquelyn H. Duffy, Judge
Superior Court County of San Luis Obispo

California Appellate Project, Jonathan B. Steiner, Executive Director, and
Richard B. Lennon, Staff Attorney, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.