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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

THE PEOPLE, Plaintiff and Respondent, v. DERRICK LAMONT BOBO, Defendant and Appellant.	C067045 (Super. Ct. No. SF103823A)

Appointed counsel for defendant Derrick Lamont Bobo asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) We find no arguable error and no concerns regarding presentence credits. We will affirm the judgment.

I

During a parole search in March 2007, a police officer found in defendant's pants three individually wrapped pieces of rock cocaine (weighing a total of .76 gram), $180 in cash, and a

cell phone. The officer also found marijuana in defendant's boxer shorts. While searching defendant's residence, the officer found a clear plastic baggie containing 19.78 grams of rock cocaine hidden in a toilet tank. The officer also found a digital scale and, inside a tennis shoe, a large quantity of cash.

Defendant was subsequently charged with possession of cocaine base for sale (Health & Saf. Code, § 11351.5) in San Joaquin County case No. SF103823A. It was further alleged in case No. SF103823A that defendant was previously convicted seven times for narcotics-related offenses pursuant to Health and Safety Code section 11370.2, subdivision (a), previously convicted of possessing or purchasing cocaine for sale in violation of section 11351.5 and within the meaning of Penal Code section 1203.07, subdivision (a)(11), and served four prior prison terms within the meaning of Penal Code section 667.5, subdivision (b).

On or about September 22, 2007, defendant was released from custody with a written promise to appear in court on September 24, 2007, and placed in the San Joaquin County Alcohol Drug Alternative Program.

On June 29, 2008, defendant was driving a vehicle when he was stopped by another police officer. The officer searched defendant pursuant to the conditions of his parole. During the search, the officer found eight individually wrapped pieces of rock cocaine in defendant's right front pocket. The officer also found $712 in cash. Defendant admitted to the officer that

he not only smoked rock cocaine, but sold it to support his habit.

Defendant was arrested and subsequently charged in San Joaquin County case No. SF109232A with possession of cocaine base for sale (Health & Saf. Code, § 11351.5) and transportation of a controlled substance (Health & Saf. Code, § 11352). It was further alleged defendant committed these crimes while released on his own recognizance in violation of Penal Code section 12022.1, was previously convicted seven times of narcotics-related offenses under Health and Safety Code section 11370.2, subdivision (a), and served four prior prison terms (Pen. Code, § 667.5, subd. (b)). Defendant was again released on his own recognizance.

On January 10, 2009, defendant was again stopped by law enforcement while driving a vehicle. The police officer recognized defendant from prior contacts and knew defendant was on parole. The officer confirmed there was a warrant for defendant’s arrest. Defendant then ran from the officer. After a lengthy chase, defendant was apprehended and searched. Police found 8.12 grams of rock cocaine on defendant’s person.

Defendant was arrested and charged in San Joaquin County case No. SF110727A with possession of cocaine base for sale (Health & Saf. Code, § 11351.5), resisting a peace officer (Pen. Code, § 148), vandalism (Pen. Code, § 594, subd. (a)), and failure to appear (Pen. Code, § 1320, subd. (b)). It was further alleged that defendant committed his crimes while released on his own recognizance. (Pen. Code, § 12022.1.)

On March 3, 2010, the trial court consolidated case Nos. SF103823A, SF109232A, and SF110727A into a single, amended information under San Joaquin County case No. SF103823A. Defendant then pleaded guilty to three counts of possessing cocaine base for sale, and one count of resisting a peace officer. Defendant admitted to six prior narcotics-related convictions under Health and Safety Code section 11370.2, and to serving one prior prison term. Defendant also pleaded guilty to one count of possessing cocaine base for sale in San Joaquin County case No. SF115759 (a case not included in defendant's notice of appeal).

As part of his plea, defendant agreed to a term of 23 years in state prison. Defendant was ordered to pay various fines and fees and was awarded 530 days of custody credit (265 actual days and 265 conduct days). Defendant appeals; his request for a certificate of probable cause was denied.

II

Appointed counsel filed an opening brief that sets forth the facts of the case and asked this court to review the record and determine whether there are any arguable issues on appeal. (*Wende*, *supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief.

Defendant requested permission to file a supplemental brief beyond the statutory period. We granted his request and ordered him to serve and file his supplemental brief on or before October 6, 2011. On September 29, 2011, defendant filed a

request for an extension of time in which to file his supplemental brief. We granted that request as well.

On November 2, 2011, defendant filed his supplemental brief. In his supplemental brief, defendant repeatedly claims he acted "upon counsel's misadvice" in entering into his plea. Defendant's request for a certificate of probable cause was denied. Accordingly, we cannot consider challenges to the validity of his plea. (Pen. Code, § 1237.5.)

Defendant further contends he received an unlawful sentence because "he should not receive more than one enhancement under [Health and Safety Code section] 11370.2 on charges not brought and tried separately." Section 11370.2 provides, in relevant part, that "[a]ny person convicted of a violation of . . . Section 11351, 11351.5, or 11352 shall receive, in addition to any other punishment authorized by law, including Section 667.5 of the Penal Code, a full, separate, and consecutive three-year term for each prior felony conviction of . . . Section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, 11380, 11380.5, or 11383, whether or not the prior conviction resulted in a term of imprisonment." There is no requirement that the prior convictions be brought and tried separately; thus, there is no error.

Defendant further contends "that his sentence for both a prior conviction under [Health and Safety Code section] 11370.2[, subdivision] (a) and a prior prison term should not have been imposed by the court." Again, Section 11370.2, subdivision (a) provides that a sentencing

enhancement under that statute shall be imposed “in addition” to any sentencing enhancement imposed pursuant to Penal Code section 667.5. Accordingly, there is no error.

Having also undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

RAYE, P. J.

We concur:

BLEASE, J.

BUTZ, J.