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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yolo)

THE PEOPLE,

Plaintiff and Respondent,

v.

JUAN MASCORRO JARAMILLO,

Defendant and Appellant.

C067396

(Super. Ct. No. 085805)

Defendant Juan Mascorro Jaramillo pled no contest to driving under the influence and driving with a blood-alcohol content of .08 percent or greater and waived all presentence custody credits in exchange for stipulated two-year prison terms to run concurrently and the dismissal of all other charges.

The court granted defendant's request for immediate sentencing, imposed the agreed upon two years for each conviction as well as the following fines and/or fees: a \$200 restitution fine; a \$90 construction fee; and a \$120 conviction fee.

FACTUAL BASIS FOR THE PLEAS

I

Driving With Blood-Alcohol Level Of .08 Percent Or Greater

On July 6, 2008, about 2:00 a.m., Yolo County Deputy Sheriff Gary Richter was on patrol in a marked car when he saw a vehicle parked about 25 feet into a field and stopped to investigate. Defendant was in the driver's seat and a woman was in the passenger's seat. Defendant told Richter that he had gotten off of work at 4:30 p.m., had "about three beers with his friends," and drove to Woodland where he picked up the woman. They bought beer, pulled to the side of the road and drank two beers each, continued driving and again parked and had "a couple more beers."

Highway Patrol Officer Guillermo Hernandez arrived to evaluate defendant's sobriety. Hernandez noted defendant's eyes were red and watery, his speech slow and slurred, and he was unsteady on his feet. In addition to not performing several of the field sobriety tests as instructed, defendant's blood-alcohol content registered .174, .126, and .18 percent on a preliminary alcohol screening device.

II

Driving Under The Influence

Yolo County Deputy Sheriff Darrel Johnson testified that on October 7, 2008, he made a traffic stop of defendant's vehicle because it displayed an expired registration tag. Defendant's eyes were red, bloodshot, and he smelled of alcohol.

Defendant's blood-alcohol content registered .16 and .157 percent on a preliminary alcohol screening device.

Highway Patrol Officer Nick Tuffanelli responded to the scene to evaluate defendant's sobriety. After having defendant perform the standard field sobriety tests, which Tuffanelli determined defendant had failed, he gave defendant a breathalyzer test. Defendant's blood-alcohol percentage registered .150 and .144. Defendant was arrested and transported to the police station where his blood-alcohol content was twice tested, measuring .12 and .12 percent each time.

DISCUSSION

Defendant appealed and we appointed counsel to represent him. (*People v. Wende* (1979) 25 Cal.3d 436.) Counsel filed an opening brief that sets forth the facts of the case and requests that this court review the record and determine whether it reflects any arguable issue on appeal. Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the filing of the opening brief. More than 30 days have elapsed, and we have received no communication from defendant.

We have reviewed the record in its entirety and find no error that might have resulted in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

_____ ROBIE _____, Acting P. J.

We concur:

_____ BUTZ _____, J.

_____ MAURO _____, J.