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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

THOMAS EDWARD KELLEY,

Defendant and Appellant.

C068338

(Super. Ct. No.
11F00378)

Appointed counsel for defendant, Thomas Edward Kelley, has 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 shall affirm the judgment.

BACKGROUND

In January 2011, "defendant did unlawfully buy, receive, conceal, sell, withhold property; to wit, a wallet and contents, specifically a California driver's license and credit cards

belonging to Steven Clark, which had been stolen and obtained by extortion, knowing said property had been stolen and obtained by extortion." In addition, defendant falsely represented himself as another person to a police officer, and was found to be carrying a dirk or dagger concealed on his person.

Defendant was arrested and charged with buying or receiving stolen property (Pen. Code, § 496, subd. (a)), giving false identification to a police officer (Pen. Code, § 148.9, subd. (a)), and carrying a dirk or dagger concealed on his person (Pen. Code, § 12020, subd. (a)). It was further alleged that defendant had served eight prior prison terms.

Pursuant to a court-proposed disposition, defendant pled guilty to all three charges and admitted serving three of the prior prison terms. In exchange for his plea, defendant would be sentenced to an aggregate term of two years in state prison.

After entering his plea, defendant requested and was given permission to represent himself pursuant to *Faretta v. California* (1975) 422 U.S. 806 [45 L.Ed.2d 562]. Defendant then filed handwritten motions asking for a referral to a drug diversion program or, alternately, to withdraw his plea. The trial court denied defendant's motion for referral to a drug diversion program and defendant withdrew the motion to withdraw his plea.

Defendant also agreed to waive his right to appeal the judgment; in exchange, the People agreed to dismiss the dirk or dagger charge. Defendant was then sentenced to the middle term of two years on his conviction for receiving stolen property.

Defendant was awarded 226 days of custody credit (113 actual and 113 conduct). No additional time was imposed for defendant's conviction for falsely identifying himself as another person to a police officer. Various fines and fees were imposed and the court terminated probation in an unrelated case.

Defendant appeals with a certificate of probable cause.

DISCUSSION

Appointed counsel filed an opening brief that sets forth the facts of the case and asks 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. More than 30 days have elapsed and we have received no communication from defendant.

Having 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.

DUARTE, J.

We concur:

NICHOLSON, Acting P. J.

HOCH, J.