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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

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THE PEOPLE,

Plaintiff and Respondent,

v.

SPENCER LAMAR BORNES,

Defendant and Appellant.

C068399

(Super. Ct. Nos.  
11F1524, 11F181)

This case comes to us pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).<sup>1</sup> Having reviewed the record as required by *Wende*, we affirm the judgment.

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<sup>1</sup> 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 elapsed, and we received no communication from defendant.

In an information filed March 25, 2011, defendant Spencer Lamar Bornes was charged in case No. 11F181 with possession for sale of methamphetamine (Health & Saf. Code, § 11378), transportation of methamphetamine (Health & Saf. Code, § 11379, subd. (a)), and possession of narcotics paraphernalia (Health & Saf. Code, § 11364). It was also alleged that defendant had a prior drug offense conviction and had served a prior prison term. (Health & Saf. Code, § 11370.2, subd. (a); Pen. Code, § 667.5, subd. (b).)

In an information filed March 28, 2011, defendant was charged in case No. 11F1524 with possession for sale of methamphetamine (Health & Saf. Code, § 11378), maintaining a place for selling methamphetamine and marijuana (Health & Saf. Code, § 11366), possession for sale of marijuana (Health & Saf. Code, § 11359), illegal possession of ammunition by a felon (Pen. Code, § 12316, subd. (b)(1)), and receiving stolen property (Pen. Code, § 496, subd. (a)). It was further alleged that defendant had a prior drug offense conviction, had served a prior prison term, and was on bail or released on his own recognizance at the time he committed the offenses. (Health & Saf. Code, § 11370.2, subd. (c); Pen. Code, § 667.5, subd. (b).)

On April 19, 2011, defendant entered into a plea agreement wherein he agreed to plead no contest to possession for sale of methamphetamine (Health & Saf. Code, § 11378) in case No. 11F1524 and to transportation of methamphetamine (Health & Saf. Code, § 11379) in case No. 11F181. He also admitted he had a prior drug offense conviction within the meaning of Health and

Safety Code section 11370.2, subdivision (c). In exchange for his plea, it was agreed the remaining counts and an additional case would be dismissed and he would be sentenced to six years in state prison.<sup>2</sup>

On May 17, 2011, the trial court sentenced defendant to six years in state prison, as follows: the upper term of three years for possession for sale of methamphetamine, an additional three years for the prior narcotics offense conviction, and a concurrent upper term of four years for transportation of methamphetamine. The trial court also imposed (along with appropriate assessments, fees, and surcharges) a base fine of \$200, two \$200 restitution fines, two stayed \$200 parole revocation fines, two \$50 criminal laboratory fees, two \$40 court security fees, and two \$30 criminal conviction assessments. Defendant was awarded 71 actual days and 71 conduct days for a total of 142 days of custody credit.

Defendant appeals. He did not obtain a certificate of probable cause. (Pen. Code, § 1237.5.)

Our review of the record reveals an omission from the abstract of judgment. As stated above, the trial court ordered defendant to pay two \$50 criminal laboratory fees, along with appropriate assessments. Although the criminal laboratory fees are reflected on the abstract of judgment, the accompanying

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<sup>2</sup> The parties stipulated that the factual basis for the plea was set forth in the police reports, which were not included in the record on appeal.

assessments are not. "All fines and fees must be set forth in the abstract of judgment." (*People v. High* (2004) 119 Cal.App.4th 1192, 1200.) Thus, we direct the trial court to correct the abstract of judgment to show the separate assessments and surcharges imposed in connection with the criminal laboratory fees. (*Id.* at p. 1201.)

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. The trial court shall prepare an amended abstract of judgment in accordance with this opinion and forward a certified copy thereof to the Department of Corrections and Rehabilitation.

\_\_\_\_\_ RAYE, P. J.

We concur:

\_\_\_\_\_ MURRAY, J.

\_\_\_\_\_ DUARTE, J.