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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

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THE PEOPLE,

Plaintiff and Respondent,

v.

LIONEL NOLAN WINSTON,

Defendant and Appellant.

C068538

(Super. Ct. No.  
09F03181)

Appointed counsel for defendant Lionel Nolan Winston 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 will affirm the judgment.

I

On March 29, 2009, defendant drove with a blood-alcohol level of 0.11 percent. He had previously been convicted of driving under the influence of alcohol in 2003, 2004 and 2005.

Upon being stopped, defendant falsely identified himself as Leroy James Sykes.

Defendant pled no contest to driving under the influence (Veh. Code, § 23152, subd. (a)) and false personation (Pen. Code, § 529) and admitted three prior convictions for driving under the influence, in exchange for a stipulated sentence of 16 months on each count to run concurrently. The court sentenced defendant in accordance with the plea and granted him 44 days of presentence credit. He was also ordered to pay a \$200 restitution fund fine, \$40 in security fees and a \$30 court facility fee.

After sentencing, defendant was granted an additional 25 days of credit for time served in custody in Virginia. Defendant also moved for an award of an additional four days of credit from a probation revocation case, claiming they had been inadvertently disregarded. The court denied this request. Defendant did not seek or obtain a certificate of probable cause.

## II

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 elapsed and we 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.

\_\_\_\_\_ MAURO \_\_\_\_\_, J.

We concur:

\_\_\_\_\_ NICHOLSON \_\_\_\_\_, Acting P. J.

\_\_\_\_\_ BUTZ \_\_\_\_\_, J.