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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

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THE PEOPLE,

Plaintiff and Respondent,

v.

CLARENCE KAIZA CALHOUN, JR.,

Defendant and Appellant.

C068576

(Super. Ct. No.  
SF115699A)

Appointed counsel for defendant Clarence Kaiza Calhoun, Jr., 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 entitlement to additional presentence credit. We will affirm the judgment.

I

Defendant was stopped while driving. He displayed symptoms of alcohol impairment and failed field sobriety tests. His

blood-alcohol level tested at .14 percent and .12 percent on an "E-PAS device." Defendant's driver's license had been suspended four times due to prior DUI convictions. He admitted he had a prior conviction for alcohol related reckless driving and two prior DUI convictions.

Defendant pleaded guilty to felony driving under the influence of alcohol (DUI) (Veh. Code, § 23152, subd. (a)) and driving with a blood-alcohol level of .08 percent or higher (Veh. Code, § 23152, subd. (b)), with three prior DUI or alcohol related reckless driving convictions within the previous 10 years (Veh. Code, § 23550, subd. (a)). He also pleaded guilty to driving with a revoked or suspended license. (Veh. Code, § 14601.2, subd. (a).)

The trial court sentenced defendant to two years in prison, but suspended execution of sentence and placed defendant on probation for five years, with a requirement that he complete a residential alcohol program.

Approximately one month later, however, defendant committed another DUI offense and admitted that he violated his probation. The trial court summarily revoked defendant's probation, imposed the previously suspended two-year prison term to run concurrent to the sentence on his new offense, and awarded 250 days of presentence credit (125 actual and 125 conduct).

## 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.

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MAURO, J.

We concur:

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HULL, Acting P. J.

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HOCH, J.