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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Tehama)

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THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL WILLIAM McCABE,

Defendant and Appellant.

C068626

(Super. Ct. No. NCR81169)

This case comes to us pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Having reviewed the record as required by *People v. Wende*, we affirm the judgment. We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

Pursuant to a warrant, Tehama Interagency Drug Enforcement agents performed a search at defendant Michael William McCabe's home. In the course of the search, agents found over 20 grams of methamphetamine, digital scales, a glass methamphetamine pipe, a hypodermic syringe, a revolver, and ammunition.

Defendant was not home during the search, and was later located

at a casino and arrested there. Another 1.8 grams of methamphetamine was found in his truck. Defendant admitted the methamphetamine and the gun found in the home were his.<sup>1</sup>

Defendant pled guilty to possession of methamphetamine (Health and Saf. Code, § 11378) and admitted the allegation that he had a prior drug conviction (Health and Saf. Code, § 11370.2, subd. (c)). The court denied defendant probation and sentenced him to a term of 16 months on the possession charge, plus three years for the prior drug conviction enhancement. He was awarded a total of 44 days of custody credit.<sup>2</sup> The court also imposed an \$800 restitution fund fine, a \$180 laboratory fee, and a \$360 drug program fee. Defendant appeals, but did not obtain a certificate of probable cause.

We appointed counsel to represent defendant on appeal. 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. (*People v. 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,

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<sup>1</sup> The parties stipulated the factual basis for the plea was contained in the investigative report. Although the report itself is not included in the record, it is summarized in the probation report. Accordingly, we take our summary of the facts from the probation report.

<sup>2</sup> At the sentencing hearing, defendant was awarded 32 days of credit, but this error was later corrected.

and we received no communication from defendant. Having undertaken an examination of the entire record, we find no arguable error.

DISPOSITION

The judgment is affirmed.

\_\_\_\_\_ HOCH \_\_\_\_\_, J.

We concur:

\_\_\_\_\_ HULL \_\_\_\_\_, Acting P. J.

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