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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Placer)

THE PEOPLE,

Plaintiff and Respondent,

v.

JUSTIN LEE MITCHELL,

Defendant and Appellant.

C068715

(Super. Ct. No.
62099053)

Appointed counsel for defendant Justin Lee Mitchell 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 will direct the trial court to correct the abstract of judgment, but we find no other arguable error and no entitlement to additional presentence credit. We will affirm the judgment.

Defendant pleaded no contest to forcible anal or genital penetration by a foreign object (Pen. Code, § 289, subd. (a)(1); count 6)¹ and admitted a kidnapping allegation with the understanding that he would receive a state prison term of 25 years to life.

The prosecutor recited the factual basis for the plea as follows: "On or about [May 25, 2010 and May 26, 2010], the victim . . . was on the telephone with her cousin leaving the Main Street Brewery in the city of Roseville Suddenly the victim began screaming, and the phone went dead. The cousin was able to call police. Police responded and began looking for the defendant. [¶] What had happened was the defendant ran at the victim and attacked her, dragged her into some bushes in the dark on the side of a building in the mud and proceeded to rape and strangle her to the point of unconsciousness. When he let go of her neck momentarily, she was able to get her wits about her, push the defendant away. He fell over. She ran. She attempted to climb up a chain-link fence nearby to get away from the defendant, and he pulled her off of the fence and proceeded to punch and attempt to subdue her again. [¶] It should be noted that during the rape at the side of the building, among other things, the defendant did penetrate her anally and vaginally with his fingers. And in doing so, during the ordeal

¹ Undesignated statutory references are to the Penal Code.

the victim did suffer a series of injuries that taken in the cumulative [sic] would constitute great bodily injury to include: a tailbone injury, a head injury, bruises, abrasions, scratches, hemorrhages all about her body, petechia associated with strangulation, strangulation ligature marks around her neck, hemorrhages to her eyes. And those injuries were significant and lasting to her. [¶] The distance that the defendant dragged her from the point of attack to the bushes where the rape occurred was 67 feet as the crow flies, more likely 73 feet as the path that was actually taken on the ground. Eventually the victim was able to get away and go to a residence where she was rescued."

Consistent with the plea agreement, the trial court sentenced defendant to 25 years to life in prison and dismissed the remaining counts and enhancements. The trial court ordered a \$1,000 restitution fine (§ 1202.4, subd. (b)), a \$1,000 restitution fine suspended unless parole is revoked (§ 1202.45), a \$40 court security fee (§ 1465.8), a \$30 criminal conviction assessment (Gov. Code, § 70373), a \$25 administrative screening fee (statutory basis unspecified), and a \$300 sexual offense fee (§ 290.3), and awarded 405 days of presentence custody credit (352 actual days and 53 local conduct days).²

² Defendant is not entitled to additional presentence custody credit under section 4019 because he has been convicted of a serious felony. (§ 1192.7, subd. (c)(25).)

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 the opening brief. More than 30 days elapsed and we received no communication from defendant.

Our review of the record indicates that the trial court's sentencing statement and the abstract of judgment do not identify the statutory basis for the \$25 "administrative screening fee." (*People v. High* (2004) 119 Cal.App.4th 1192, 1200-1201.) We will remand to the trial court for correction of the abstract of judgment.

Having undertaken an examination of the entire record, we find no other arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed. The matter is remanded to the trial court with directions to prepare a corrected abstract of judgment that states the statutory basis for the \$25 "administrative screening fee" and to forward a certified copy

of the corrected abstract of judgment to the California
Department of Corrections and Rehabilitation.

_____ MAURO _____, J.

We concur:

_____ HULL _____, Acting P. J.

_____ BUTZ _____, J.