

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

SCOTT JOSEPH TROUTMAN,

Defendant and Appellant.

C068787

(Super. Ct. No.
CM033345)

Defendant Scott Joseph Troutman pleaded guilty to receiving stolen property and admitted he had sustained a prior strike conviction. The trial court sentenced him to the upper term of six years.

Defendant's ensuing appeal is subject to the principles of *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *People v. Kelly* (2006) 40 Cal.4th 106, 110. In accordance with the latter, we will provide a summary of the offense and the proceedings in the trial court.

In February 2011, defendant was found in possession of several power tools he knew to be stolen. He was charged with receiving stolen property. (Pen. Code, § 496; undesignated statutory references are to the Penal Code.) It was further alleged defendant had served a prior prison term and did not remain free of custody for five years (§ 667.5, subd. (b)), and that he had a prior serious felony conviction. (§§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d).) Defendant pleaded guilty to possession of stolen property and admitted the prior strike. The People dismissed the prior prison term enhancement. Defendant was advised he could be subject to six years in prison, a \$20,000 restitution fund fine, plus full victim restitution.

Recognizing it had the discretion to dismiss the strike, the court expressly declined to exercise its discretion. The court denied probation, as defendant was ineligible and his prior performance on parole was unsuccessful. After considering the probation report and the arguments of counsel, the court found the circumstances in aggravation outweighed those in mitigation and sentenced defendant to the upper term of six years. Various fines and fees were imposed, including a \$200 victim restitution fund fine. Jurisdiction was reserved to order direct victim restitution. Defendant was granted 64 days actual time credit and 32 days good time credits.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests 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 have elapsed, and we have 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.

_____ HULL _____, Acting P. J.

We concur:

_____ BUTZ _____, J.

_____ MAURO _____, J.