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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

THE PEOPLE,

Plaintiff and Respondent,

v.

BARBARA JOETTE PERRY,

Defendant and Appellant.

C068815

(Super. Ct. Nos.
CRF08442 & CRF10510)

Appointed counsel for defendant Barbara Joette Perry 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

Between May 1, 2007, and March 2008, defendant and her husband made numerous welfare applications for cash aid, food

stamps, and supportive services. In making those applications, defendant failed to report income from businesses owned by defendant and her husband. As a result of her fraudulent applications, defendant received \$15,887.13 in cash aid and supportive services, and \$3,273 in food stamps.

Defendant was arrested and charged in Yuba County Superior Court, case No. CRF08442, with one count of welfare fraud (Welf. & Inst. Code, § 10980, subd. (c)(2)), four counts of perjury (Pen. Code, § 118, subd. (a)), and one count of misdemeanor resisting, delaying, or obstructing a peace officer (Pen. Code, § 148).

During the pendency of case No. CRF08442, defense counsel represented to the trial court that defendant suffered a stroke and was hospitalized. Defendant subsequently appeared in court in a wheelchair with apparent medical difficulties. The case was continued.

Defense counsel forwarded to the People a letter from a physician at Kaiser Permanente. The letter indicated defendant required extensive medical care and treatment as a result of her medical condition. Based on the contents of the letter, defense counsel asked the prosecution to dismiss the charges pending against defendant. But a subsequent police investigation revealed that the letter was a forgery and that defendant feigned her medical condition to avoid prosecution.

Defendant was arrested a second time and charged in Yuba County Superior Court case No. CRF10510 with offering false evidence (Pen. Code, § 132), preparing false evidence (Pen.

Code, § 134), and forgery (Pen. Code, § 470, subd. (b)). It was further alleged that defendant committed these offenses while she was released from custody. Defendant had also been released from custody in another pending criminal matter in Solano County Superior Court, case No. FCR273821.

Defendant pleaded no contest to the charges of welfare fraud in case No. CRF08442, and of forgery in case No. CRF10510. The trial court dismissed the remaining charges and allegations in those two cases with a *Harvey*¹ waiver. Consistent with the plea agreement, the trial court sentenced defendant to an aggregate term of 16 months in prison, to run consecutive to defendant's sentence in Solano County case No. FCR273821. Because defendant had already begun serving her prison sentence in the Solano County case, the trial court awarded only two days of custody credit (one actual and one conduct). The trial court also ordered defendant to pay various fines and fees.

Defendant appeals without 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

¹ *People v. Harvey* (1979) 25 Cal.3d 754.

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.

_____ MAURO _____, J.

We concur:

_____ RAYE _____, P. J.

_____ HOCH _____, J.