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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

THE PEOPLE,

Plaintiff and Respondent,

v.

HEATH WESLEY GALBRAITH,

Defendant and Appellant.

C068892

(Super. Ct. No. CRTR11165)

This is an appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). We provide the following brief description of the facts and procedural history of the case. (*People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

On November 27, 2010, when a sheriff's deputy attempted to stop defendant Heath Wesley Galbraith for speeding, defendant sped away. Defendant reached speeds in excess of 110 miles per hour, drove erratically, changed lanes without signaling and cut off other vehicles. He finally lost control, ended up in a ditch and collided with a drainage pipe. Defendant tested

positive for marijuana, methamphetamine and opiates.

He previously had been convicted of driving under the influence in August 2001, April 2003, and March 2010.

Defendant entered a plea of no contest to driving under the influence of alcohol and/or drugs and admitted three prior convictions for the same. (Veh. Code, §§ 23152, subd. (a), 23550.) He also pled no contest to felony evading an officer with wanton disregard. (Veh. Code, § 2800.2, subd. (a).) Defendant entered his plea and admissions in exchange for dismissal of the remaining counts (resisting arrest, being under the influence of methamphetamine, and driving on a suspended or revoked license).

On June 27, 2011, the court sentenced defendant to state prison for the upper term of three years for the driving under the influence offense and a concurrent upper term of three years for felony evading. The court awarded defendant 37 actual days and 37 conduct days for a total of 74 days of presentence custody credit. The court ordered defendant to pay victim restitution to the County of Yuba in the amount of \$129.29 for repairs to the drainage pipe.

Defendant appeals. His request for a certificate of probable cause was denied. (Pen. Code, § 1237.5.)

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.

_____ MURRAY _____, J.

We concur:

_____ RAYE _____, P. J.

_____ DUARTE _____, J.