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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

THE PEOPLE,

Plaintiff and Respondent,

v.

DARREN LAVON CAMPBELL,

Defendant and Appellant.

C069065

(Super. Ct. No. CRF07599)

Appointed counsel for defendant, Darren Lavon Campbell, 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 concerns regarding presentence credits. We affirm the judgment.

I

In September 2007, defendant, along with Crystal Ford and Joseph Hardy, drove to the Yuba Food and Liquor Store in Marysville. Defendant and Hardy went inside the store while Ford waited in the car. Inside the store, defendant took a

bottle of Crown Royal whisky, put it under his arm, and walked out.

Defendant and Hardy returned to the car where Ford was waiting; all three were stopped by law enforcement. Defendant fled the scene but soon thereafter turned himself in to law enforcement. Defendant was subsequently charged with second degree burglary (Pen. Code, § 459)¹ and conspiracy to commit second degree burglary (§§ 182, 459). It was also alleged that defendant was previously convicted of a felony and served a prior prison term.

Defendant pled no contest to second degree burglary; the remaining charge and enhancement allegations were stricken. As part of the negotiated plea, the court also dismissed two trailing misdemeanor cases: CRTR-08-960 and CRTR-08-147.

At sentencing, the trial court found this to be an unusual case pursuant to California Rules of Court, rule 4.413(c)(1)(B). Accordingly, the court suspended imposition of sentence and placed defendant on felony probation for three years. As a condition of probation, defendant was ordered to serve 120 days in county jail. Among other things, defendant also was ordered to "[s]ubmit to and pay for urinalysis testing for alcohol and controlled substances as directed by the probation officer. Totally abstain from the use of intoxicants, possess no alcoholic beverages, and do not frequent places where alcohol is the chief item for sale."

¹ Undesignated statutory references are to the Penal Code.

On April 20, 2011, a petition and order to revoke defendant's probation was filed, charging defendant with violating the terms of his probation by failing to obey all laws, failing to abstain from the use of alcohol, and refusing to submit to testing for the use of alcohol and controlled substances.

On May 12, 2011, an amended petition to revoke defendant's probation was filed. The amended petition included an allegation that on April 28, 2011, defendant tested positive for cocaine.

Defendant later admitted to the allegations he failed to abstain from alcohol and controlled substances and failed to submit to drug testing. The prosecution then struck the allegation that defendant failed to obey all laws and dismissed a related, trailing misdemeanor in case No. YCMC-CRM-11-000372. Finding defendant no longer had the ability to comply with probation, had numerous probation violations, and failed to comply with the terms of his current probation, the trial court denied further probation. Because defendant served a prior prison term and had numerous prior convictions, the court then imposed the upper term of three years in state prison.

Defendant was awarded 192 days of custody credit (96 actual and 96 conduct) and ordered to pay the \$200 probation revocation fine pursuant to section 1202.44. The court then imposed numerous fines and fees, consistent with those imposed and suspended when defendant was first awarded probation on the underlying conviction for second degree burglary. Defendant

appeals. His request for a certificate of probable cause was denied.

II

Appointed counsel filed an opening brief that sets forth the facts of the case and asked 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.

HOCH, J.

We concur:

NICHOLSON, Acting P. J.

DUARTE, J.