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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

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THE PEOPLE,  
  
Plaintiff and Respondent,  
  
v.  
  
ANGEL MIGUEL FIELDING,  
  
Defendant and Appellant.

C069570  
  
(Super. Ct. No. CRF 11-  
393)

This case comes to us pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *People v. Kelly* (2006) 40 Cal.4th 106, 110 (*Kelly*). Having reviewed the record as required by *Wende*, we affirm the judgment.

We provide the following brief description of the facts and procedural history of the case. (*Kelly, supra*, 40 Cal.4th at p. 124.)

On July 25, 2011, 18-year-old defendant Angel Miguel Fielding was found by officers in the carport outside the apartment where a man and his 17-year-old daughter lived.

Defendant had red, watery eyes, slurred speech and an odor of alcohol on his person. Defendant had previously dated the daughter; when the relationship ended, defendant showed up unannounced and uninvited at their residence. One time, he was found in the daughter's bedroom with a BB gun. He also left several harassing messages on her phone, and threatened to shoot her after he had been arrested for trespassing at her apartment.

Defendant entered a plea of no contest to stalking. (Pen. Code, § 646.9, subd. (a)). Defendant also entered a plea of no contest to second degree burglary (vehicle), a misdemeanor, in another case (CRM 11-643). Defendant entered his pleas in exchange for dismissal of pending charges in two other cases (CRM 11-722: loitering or prowling on private property and public intoxication, misdemeanors; and CRM 11-606: aggravated trespass and public intoxication, misdemeanors) with a waiver pursuant to *People v. Harvey* (1979) 25 Cal.3d 754. The remaining count (first degree burglary) in the present case was dismissed.

The day before sentencing, defendant personally wrote to the court, asking to withdraw his plea. At sentencing, defense counsel commented that he found no legal basis for defendant to withdraw his plea. Counsel noted that although defendant first said he wanted to withdraw his plea, he then said he "just [wanted] a rehabilitation program." When the court asked, defendant had nothing to add. Having read the letter, the court

found no basis to appoint conflict counsel, describing defendant's letter as expressing "buyer's remorse."<sup>1</sup>

The court denied probation and sentenced defendant to state prison for the midterm of two years for stalking. The court ordered defendant to pay a \$400 restitution fine, a \$400 parole revocation restitution fine, a \$30 criminal conviction assessment, a \$40 court security fee, and \$300 in victim restitution to the daughter's father for the cost of replacing a broken window and screen caused when defendant broke into their apartment. The court awarded 33 actual days and 33 conduct days for a total of 66 days of presentence custody credit.

Defendant appeals. The trial court denied defendant's request for a certificate of probable cause. (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

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<sup>1</sup> Defendant asked to "pull" his plea. Defendant stated that he made a mistake by pleading guilty, it was the wrong decision, he has a drinking problem and needs help, the current offense would not have happened if he had not been drinking, and probation recommended two years but he wanted to go to a rehabilitation program because prison would not help him. He asked for mercy.

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:

\_\_\_\_\_ ROBIE \_\_\_\_\_, Acting P. J.

\_\_\_\_\_ BUTZ \_\_\_\_\_, J.