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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIE CAVIL HARRIS,

Defendant and Appellant.

C070119

(Super. Ct. No.
11F00752)

Appointed counsel for defendant Willie Cavil Harris has asked this court to review the record to determine whether there exist any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) Defendant has filed a supplemental brief. As we explain, we shall modify the judgment to include the statutory bases for all fines and fees, and order the abstract of judgment amended accordingly. We shall affirm the judgment as modified.

BACKGROUND

A jury found defendant guilty of driving while under the influence of alcohol (count 1; Veh. Code,¹ § 23152, subd. (a)), driving with a blood-alcohol level of .08 percent or more (count 2; § 23152, subd. (b)), and driving on a suspended license (count 3; § 14601.2, subd. (a)). The jury found not true an allegation as to count 2 that defendant's blood-alcohol level was .15 percent or more.

The evidence presented at trial showed that on the night of December 31, 2010, law enforcement stopped defendant's car because he was driving without his lights on. Defendant smelled of alcohol, his eyes were bloodshot and watery, his speech was slow and slurred, and he could not walk straight once out of the car. The results of a blood draw taken about an hour after defendant's arrest showed a blood-alcohol level of .17 percent. The parties stipulated that defendant was driving on a suspended and revoked license.

In a bifurcated proceeding, the trial court found true: 1) as to count 1, that defendant had sustained four prior convictions for violating sections 23152, subdivision (a) or (b), or 23103.5; 2) as to count 3, that defendant had sustained five prior convictions for violation of sections 14601.1, subdivision (a), or 14601.2, subdivision (a); and as to all counts, that defendant had been convicted of first degree

¹ Further undesignated statutory references are to the Vehicle Code.

burglary (Pen. Code, §§ 459, 667, subds. (b)-(i), 1170.12) and that he had served a prior prison term for violating section 23152, subdivision (b) (Pen. Code, § 667.5, subd. (b)).

After denying defendant's motion to strike his strike (Pen. Code, § 1385; *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497), the trial court sentenced defendant to an aggregate state prison term of seven years, consisting of the three-year upper term on count 1, doubled, for a principal term of six years, plus one year consecutive for the prior prison term enhancement. The court imposed a concurrent sentence of 352 days on count 3 and stayed sentence on count 2 (Pen. Code, § 654). The court awarded 352 days of presentence custody credit (176 actual days and 176 conduct days).

The court imposed a \$1,400 restitution fine (Pen. Code, § 1202.4, subd. (b)), a suspended parole revocation restitution fine (Pen. Code, § 1202.45), and a \$120 court security fee (Pen. Code, § 1465.8). The court also imposed a \$400 fine, a \$50 "alcohol abuse education and prevention penalty assessment," a \$287.78 main jail booking fee, a \$59.23 main jail classification fee, and a \$4 "emergency medical air transportation fund fee," all without specifying the statutory bases for these fines and fees.

DISCUSSION

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 review the record and determine whether there are any arguable issues on appeal. (*Wende, supra,*

25 Cal.3d 436.) Counsel advised defendant of the right to file a supplemental brief within 30 days of the date of filing of the opening brief.

Defendant filed a supplemental brief purporting to challenge the validity of the traffic stop and asserting that his trial counsel somehow prevented him from accepting a plea agreement under which he would have received a 36-month sentence with substance abuse treatment. These contentions are not cognizable because defendant does not support them with legal argument, authority, or record citation. (*Amato v. Mercury Casualty Co.* (1993) 18 Cal.App.4th 1784, 1794; *Kim v. Sumitomo Bank* (1993) 17 Cal.App.4th 974, 979.) Defendant also includes and argues numerous "facts" outside the record, which are not properly before us on appellate review.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant. However, we must order the judgment modified to include the statutory bases for certain of the imposed fees and fines.

As we have already detailed *ante*, the trial court failed to articulate these statutory bases during pronouncement of sentence and the abstract of judgment does not reflect the statutory bases. It is well-settled that the record must reflect the statutory basis for each and every fee and fine imposed. (*People v. High* (2004) 119 Cal.App.4th 1192, 1200-1201.) Accordingly, we must order the judgment modified and direct the trial court to prepare an amended abstract of

judgment that contains the statutory bases for *all* of the fines and fees.

DISPOSITION

The judgment is affirmed as modified to include the statutory bases for all the fines and fees imposed. The trial court is directed to prepare an amended abstract of judgment that specifies the statutory bases for all fines and fees, and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

_____ DUARTE _____, J.

We concur:

_____ BUTZ _____, Acting P. J.

_____ MURRAY _____, J.