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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.

ANDREW JASON BRACKETT,

Defendant and Appellant.

C070308

(Super. Ct. No.  
CRF11451)

Appointed counsel for defendant Andrew Jason Brackett 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*).) We find no errors and shall affirm the judgment.

**BACKGROUND**

On August 20, 2011, defendant was observed nearly colliding with a parked car. An officer stopped defendant's car and noted he appeared to be intoxicated. Defendant was unable to perform field sobriety tests and was arrested. His blood-alcohol level

was .15 percent. He had been convicted of three driving under the influence (DUI) offenses within the previous two years. He was charged with DUI with prior convictions, driving with a blood-alcohol level of .08 percent or greater with prior convictions, driving while privileges are suspended, and failure to provide proof of financial responsibility.

On October 26, 2011, defendant pled no contest to driving with a blood-alcohol level of .08 percent or greater with the three prior convictions (Veh. Code, §§ 23152, subd. (b), 23550). He entered his plea with the understanding that he would be seeking probation but could be sentenced up to two years in prison.

On January 3, 2012, after preparation of the probation officer's report, defendant informed the trial court that he would not be seeking probation, had stipulated to a sentence of 16 months in prison, and requested modification of his plea agreement accordingly. The trial court accepted the modification to the plea agreement and sentenced defendant to 16 months to be served in the county jail. The trial court also imposed a \$200 restitution fine, a \$40 court security fee, a \$30 conviction assessment, and a \$4 emergency medical air transportation fine. At defendant's request, the trial court also converted the remaining \$3,920 in fines to jail time consisting of an additional 39 consecutive days. Defendant was awarded two days of custody credit.

**DISCUSSION**

Defendant appeals. He did not obtain a certificate of probable cause. (Pen. Code, § 1237.5.) Counsel filed an opening brief that sets forth the facts of the case and asks us to 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. More than 30 days have elapsed, and we have received no communication from defendant. We have undertaken an examination of the entire record and find no arguable error that would result in a disposition more favorable to defendant.

**DISPOSITION**

The judgment is affirmed.

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DUARTE, J.

We concur:

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BLEASE, Acting P. J.

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MAURO, J.