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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sutter)

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES RUSSELL FOREMAN II,

Defendant and Appellant.

C070940

(Super. Ct. No. CRF111647)

Appointed counsel for defendant James Russell Foreman II 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*)). Finding no arguable error that would result in a disposition more favorable to defendant, we will affirm the judgment.

I

Law enforcement officers pulled defendant over after observing him driving on the wrong side of the road. Upon contacting defendant, they noticed a strong odor of

alcohol and noted that his eyes were bloodshot and watery and his speech was slurred. Defendant completed only one field sobriety test before declaring he was “done” and telling the officers to take him to jail. A breath test administered at the county jail indicated blood-alcohol levels of .20 and .22 percent.

Defendant pleaded no contest to driving with a blood-alcohol level of .08 percent or higher, having sustained three or more convictions for driving under the influence within the previous 10 years. (Veh. Code, §§ 23152, subd. (b), 23550.) He also admitted allegations that he served three prior prison terms.

The trial court sentenced defendant to an aggregate term of six years (the upper term of three years plus a consecutive three years for the prior prison term enhancement), to be served locally pursuant to Penal Code section 1170, subdivision (h). The trial court reserved jurisdiction and set a review date of July 15, 2013, to consider whether execution of a portion of the term should be suspended in favor of mandatory supervision. The trial court awarded defendant two days of custody credit, ordered him to pay various fines and fees, and denied his request for a certificate of probable cause (Pen. Code, § 1237.5).

II

Appointed counsel filed an opening brief setting forth the facts of the case and asking 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 the opening brief. More than 30 days elapsed and we 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.

MAURO, J.

We concur:

BLEASE, Acting P. J.

MURRAY, J.