

**NOT TO BE PUBLISHED**

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

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THE PEOPLE,

Plaintiff and Respondent,

v.

YEVGENIY NIKOLAYEVI LEVCHENKO,

Defendant and Appellant.

C071258

(Super. Ct. No. 12F02137)

Defendant Yevgeniy Nikolayevi Levchenko entered a negotiated plea of no contest to first degree burglary (Pen. Code, § 459) in exchange for no state prison at the outset and probation with 210 days in custody.<sup>1</sup> The trial court sentenced him in accordance with the plea.

Defendant's ensuing appeal is subject to the principles of *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *People v. Kelly* (2006) 40 Cal.4th 106, 110. In accordance

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<sup>1</sup> Defendant also entered a plea of no contest to misdemeanor driving under the influence in another case for which he received informal probation.

with the latter, we provide a summary of the offense and the proceedings in the trial court.

On March 25, 2012, defendant unlawfully entered the inhabited dwelling of Gary Morris with the intent to commit larceny. A complaint charged defendant with first degree burglary. In April 2012, defendant pleaded no contest to Penal Code section 459 with the understanding that he would receive a grant of probation. The court suspended imposition of sentence and granted probation for a term of five years subject to certain terms and conditions including 210 days in county jail with 32 days of credit.

Defendant appeals.

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 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.

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BUTZ, J.

We concur:

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BLEASE, Acting P. J.

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HOCH, J.