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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT BARNET LEVITT,

Defendant and Appellant.

C071875

(Super. Ct. No. 12F179)

Defendant's 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 with *Kelly*, we will provide a summary of the offenses and the proceedings in the trial court.

PROCEDURAL BACKGROUND

On January 24, 2012, defendant Robert Barnet Levitt pleaded no contest to unlawful possession of methamphetamine, a felony (Health & Saf. Code, § 11377, subd. (a)), and to giving false identification to a peace officer (Pen. Code, § 148.9, subd. (a)), a misdemeanor. He also admitted a prior strike conviction (robbery). In

exchange for his pleas and admission defendant was promised a state prison sentence of 32 months (the lower term of 16 months, doubled because of the strike) and the dismissal of two other charges as well as an allegation of having served a prior prison term.

Defendant was awarded 116 days of presentence custody credit, consisting of 58 days of actual custody and 58 days for conduct.¹ The court also imposed various fines and fees as set forth in detail in the abstract of judgment.

FACTUAL BASIS FOR THE PLEA

During the investigation of a case involving a stolen vehicle that defendant had sold to another person, defendant falsely identified himself to the investigating officer and was thereafter found in possession of methamphetamine.

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 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. We have undertaken an examination of the entire record and find no arguable error that would result in a disposition more favorable to defendant.

However, we note a clerical error to be corrected in the abstract of judgment. The abstract of judgment, filed March 13, 2012, which is the only abstract of judgment in the appellate record, lists defendant's presentence custody credit as 133 days (67 actual, 66 conduct) rather than the 116 days (58 actual, 58 conduct) as determined on October 2, 2012.

¹ Defendant was originally awarded 133 days of presentence custody credit; however, this amount was modified on October 2, 2012, to 116 days.

DISPOSITION

The trial court is directed to prepare a corrected abstract of judgment reflecting that defendant's presentence custody credit consists of 58 days' actual custody plus 58 days for conduct and to forward a certified copy thereof to the Department of Corrections and Rehabilitation. The judgment is affirmed.

_____ RAYE _____, P. J.

We concur:

_____ BLEASE _____, J.

_____ BUTZ _____, J.