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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Siskiyou)

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSEPH MICHAEL KIVETT,

Defendant and Appellant.

C072007

(Super. Ct. No. 111955)

Appointed counsel for defendant Joseph Michael Kivett 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

A deputy sheriff contacted defendant and began a parole search. Defendant struggled, removed a plastic bag from his pants pocket and threw it in a drain. The bag

was recovered and found to contain seven baggies of methamphetamine. The deputy sustained abrasions in the struggle.

Defendant pleaded guilty to possession of methamphetamine for sale (Health & Saf. Code, § 11378) and resisting a peace officer (Pen. Code, § 69). He also admitted a prior strike conviction and a prior prison term. The trial court sentenced him to an aggregate term of eight years four months in prison, consisting of three years for possession of methamphetamine for sale, doubled for the strike; a consecutive eight months (one-third the middle term) for resisting a peace officer, doubled for the strike; and a consecutive one year for the prior prison term enhancement. The trial court imposed various fines and fees, including a \$1,920 restitution fine, and awarded defendant 140 days of custody credit.

Defendant did not obtain 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.

NICHOLSON, J.