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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sutter)

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THE PEOPLE,

Plaintiff and Respondent,

v.

RAMON MERCADO PONCE,

Defendant and Appellant.

C072034

(Super. Ct. No. CRF112268)

Appointed counsel for defendant Ramon Mercado Ponce 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 executed a search warrant on defendant's residence and found .81 grams of methamphetamine in defendant's bedroom. Less than two months

later, law enforcement stopped defendant after observing him driving erratically and exhibiting objective signs of intoxication. Defendant failed field sobriety tests and was subsequently found to have a blood-alcohol level of .28 percent.

Defendant pleaded no contest to misdemeanor possession of methamphetamine (Health & Saf. Code, § 11377, subd. (a); Pen. Code, § 17, subd. (b) -- count 1) and felony driving under the influence of alcohol with three prior convictions for the same offense (Veh. Code, §§ 23152, subd. (a), 23550 -- count 2).

On the possession offense, the trial court ordered defendant to complete a deferred entry of judgment drug diversion program. And on the driving under the influence offense, the trial court placed defendant on probation for five years with the condition, among others, that defendant serve 240 days in county jail. The trial court also ordered defendant to pay various fines and fees, including a \$200 restitution fine.

The probation department subsequently notified the trial court that defendant was arrested for driving with a suspended license and thus violated the orders for deferred entry of judgment and probation. Defendant admitted violating the orders.

On the possession offense, the trial court sentenced defendant to 360 days with credit for 360 days. And on the driving under the influence offense, the trial court terminated defendant's probation, sentenced him to the middle term of two years (to be served locally pursuant to Penal Code section 1170, subdivision (h)), and awarded presentence credit of 396 days (198 actual days and 198 conduct days).

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.

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MAURO, J.

We concur:

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ROBIE, Acting P. J.

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DUARTE, J.