

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Tehama)

THE PEOPLE,

Plaintiff and Respondent,

v.

RYAN DANIAL COOL,

Defendant and Appellant.

C073042

(Super. Ct. Nos. NCR81042,
NCR78848)

This is an appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).

On March 23, 2010, defendant Ryan Danial Cool and two juvenile boys entered an old warehouse and ransacked it, breaking and damaging many items. They were found in possession of a flashlight and a baseball bat. Defendant entered a plea of guilty to second degree burglary (Pen. Code, § 459) in case No. NCR78848. The court granted probation for a term of three years subject to 270 days in county jail.

On January 25, 2011, while on probation, defendant assaulted two juvenile girls in a park with a bottle of alcohol, causing physical injury to them. In case No. NCR81042, defendant entered a plea of guilty to two counts of assault with a deadly weapon (Pen.

Code, § 245, subd. (a)(1); counts I and IV) in exchange for a stipulated five-year term, suspended, a grant of probation subject to 365 days in county jail with a waiver of custody credits pursuant to *People v. Johnson* (1978) 82 Cal.App.3d 183, 188 (see also *People v. Johnson* (2002) 28 Cal.4th 1050, 1054-1055), and dismissal of the remaining counts and allegations. In case No. NCR78848, defendant admitted violating probation by failing to obey all laws in exchange for reinstatement on probation with jail time concurrent to time served in case No. NCR81042. The court sentenced defendant to the five-year term (upper term of four years on count I, and one-third the midterm or one year on count IV), suspended execution and granted probation in case No. NCR81042 and reinstated defendant on probation in case No. NCR78848.

Defendant admitted violating probation in both cases by moving to Shasta County without obtaining permission or notifying probation. The court sentenced defendant to state prison for the previously imposed five-year term in case No. NCR81042 and a consecutive one-third the midterm or eight months in case No. NCR78848.

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 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.

HULL, Acting P. J.

We concur:

ROBIE, J.

MAURO, J.