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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.

WILLIAM FREAR,

Defendant and Appellant.

C073162

(Super. Ct. No. 12F05323)

Appointed counsel for defendant William Frear has asked this court to review the record to determine whether there exist any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). We affirm the judgment

BACKGROUND

On August 30, 2012, defendant pleaded no contest to second degree burglary, admitted a prior strike conviction and the service of a prior prison term. In exchange for his plea and admissions, defendant was to receive a maximum sentence of four years and the dismissal of other charges.

On November 16, 2012, the court denied defendant's request for the court to exercise its discretion and strike his prior strike conviction pursuant to *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497. The court then imposed the middle term of two years, doubled to four years because of the strike, and stayed the sentence on the service of the prior prison term. The court awarded defendant 189 days of presentence custody credit, consisting of 95 actual days served plus 94 days for conduct. The court also imposed fines and fees as detailed in the abstract of judgment.

#### FACTUAL BASIS FOR THE PLEA

Deputies from the Sacramento County Sheriff's Department set up a trailer within which was a spool of copper wire worth \$2,000. The trailer was alarmed and would signal if it was broken into. Defendant broke into the trailer, the alarm activated and the deputies went to the scene. There they saw defendant running from the trailer and captured him. Defendant had parked a Firebird vehicle near the trailer. Inside the Firebird was a copper air conditioning condenser which had been inside the car that was part of the bait vehicle.

#### DISCUSSION

Appointed counsel filed an opening brief that sets forth the facts of the case and asks this court to review the record to 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 the 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.

DISPOSITION

The judgment is affirmed.

NICHOLSON, Acting P. J.

We concur:

HULL, J.

BUTZ, J.