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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

ALEXANDER FRANK BENITES,

Defendant and Appellant.

C076381

(Super. Ct. No. 13F03242)

Appointed counsel for defendant Alexander Frank Benites 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*)). Finding no arguable error that would result in a disposition more favorable to defendant, we shall affirm the judgment.

BACKGROUND

On May 20, 2013, California Highway Patrol Officer Jason Grimm saw defendant and Tracy Kirchner riding together on one bicycle, with Kirchner riding on the handlebars. He stopped them for that violation of the Vehicle Code. Kirchner was carrying a purse. Grimm conducted a warrant check on the pair. During the stop, Grimm saw defendant remove a blue compact case from his pants pocket and put it in Kirchner's purse.

The warrant check revealed defendant had a felony no-bail warrant. Accordingly, Grimm placed him under arrest. He then searched Kirchner's purse and a backpack fastened to the bike; inside the blue compact defendant had placed in the purse was heroin. The search also revealed various drug paraphernalia in the purse and backpack.

Defendant moved to suppress the seized items (Pen. Code, § 1538.5)¹; after denial of his motion due to his lack of standing, defendant proceeded to jury trial. Ultimately, the jury found him guilty of possession of heroin. (Health & Saf. Code, § 11350, subd. (a).)² In bifurcated proceedings, the trial court found true two prior prison term allegations. (§ 667.5, subd. (b).) The trial court sentenced defendant to an aggregate term of four years in state prison and awarded him 380 days of presentence custody credits. The court ordered defendant to pay a \$1,120 restitution fine (§ 1202.4, subd. (b)), a \$1,120 parole revocation fine suspended unless parole is revoked (§ 1202.45), and various fees and assessments.

Defendant timely appealed.

¹ Further undesignated statutory references are to the Penal Code.

² The jury acquitted defendant of misdemeanor charges of possession of drug paraphernalia. (Health & Saf. Code, §§ 11364, 11364.1.)

DISCUSSION

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.) Counsel advised defendant of his right to file a supplemental brief within 30 days of the date of filing of the opening brief. We did not receive a supplemental brief 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.

DUARTE, J.

We concur:

HULL, Acting P. J.

MAURO, J.