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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.

CHARLES MITCHELL, JR.,

Defendant and Appellant.

C079051

(Super. Ct. No. 14F01734)

Appointed counsel for defendant Charles Mitchell, Jr., asked this court to review the record and 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

Defendant drove on a public road while under the influence of alcohol and with a blood alcohol level of 0.12. He was seen weaving and crossing over the white line that separated the lanes.

Defendant pleaded no contest to driving under the influence of alcohol with three or more prior similar convictions within 10 years (Veh. Code, § 23152, subd. (a)),<sup>1</sup> driving with a blood alcohol level of 0.08 or higher with three or more prior similar convictions within 10 years (§ 23152, subd. (b)), misdemeanor driving with a suspended or revoked license (§ 14601.2, subd. (a)), and misdemeanor driving without a required ignition lock device (§ 23247, subd. (e)). He admitted three prior convictions for driving under the influence/driving with 0.08 percent blood alcohol level within the last 10 years (§ 23152, subds. (a) & (b)) and six prior convictions for driving with a suspended or revoked license within the last five years (§§ 14601.1, subd. (a), 14601.2, subd. (a)). Defendant also admitted a prior strike conviction. (Pen. Code, §§ 1192.7, 667.5, subds. (b)-(i), 1170.12.)

A probation report was not prepared. Immediately following defendant's plea, the trial court sentenced defendant to a stipulated four-year state prison term consisting of the midterm for driving with a blood alcohol level of 0.08 or higher, doubled because of the prior strike conviction. It imposed but stayed a sentence for driving under the influence of alcohol pursuant to Penal Code section 654, and it imposed concurrent county jail sentences for the misdemeanor convictions. The trial court awarded 301 days of presentence credit and ordered defendant to pay various fines and fees.

## 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.

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<sup>1</sup> Undesignated statutory references are to the Vehicle Code.

