

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

ERIC SOLIS-MARTINEZ,

Defendant and Appellant.

C080624

(Super. Ct. No. 15F02321)

This is an appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436. On April 14, 2015, defendant struck up a conversation with a female at a bus stop then exposed himself to her. The female victim asked defendant to “put himself away,” then called the police.

Defendant pleaded guilty to indecent exposure (Pen. Code, § 314) and admitted being previously convicted of a strike offense (Pen. Code, §§ 1170.12, 667, subds. (b)-(i)). In exchange for his plea, the People agreed to a stipulated term of four years in state prison. The trial court sentenced defendant in accordance with his plea agreement,

ordered him to pay various fines and fees, and awarded him 372 days of custody credit. Defendant appeals. The trial court denied his request for a certificate of probable cause.

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. (*People v. 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.

We note an error at sentencing. A \$40 court operations assessment (Pen. Code, § 1465.8) and a \$30 criminal conviction assessment (Gov. Code, § 70373) appear on the abstract of judgment. Those fees do not appear in the court's oral rendition of judgment. The trial court should have orally imposed the assessments before the clerk added them to the abstract of judgment, but the trial court had no discretion on imposing the two fees. Both the court operations assessment and the criminal conviction assessment are mandatory. Generally, an oral pronouncement of judgment controls (*People v. Mesa* (1975) 14 Cal.3d 466, 471), but where assessments are mandatory, "their omission may be corrected for the first time on appeal" (*People v. Castellanos* (2009) 175 Cal.App.4th 1524, 1530). Thus, there is no need for defendant to be given an opportunity to address their imposition. The trial court's failure to impose these assessments is sentencing error which we correct on appeal. We will order the judgment modified to provide for these two assessments. Since the abstract of judgment already reflects their imposition, we need not order the trial court to prepare an amended abstract.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

