

**NOT TO BE PUBLISHED**

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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.

SKIPPER RICK MARTIN,

Defendant and Appellant.

C081041

(Super. Ct. No. 14F04495)

Appointed counsel for defendant Skipper Rick Martin has asked this court to review the record to determine whether there exists any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) In accordance with *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124, we provide a summary of defendant's offenses and the proceedings in the trial court.

Defendant was charged by criminal complaint with nine counts of lewd and lascivious acts on a child under the age of 14. (Pen. Code § 288, subd. (a).)<sup>1</sup>

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

Defendant entered a negotiated plea of no contest to counts one and two in exchange for a stipulated sentence of 10 years in state prison and dismissal of the balance of charges against him. The parties stipulated to the following factual basis for the plea: On February 1, 2014, defendant touched the chest of the victim T.D. who at the time was eight years old. Defendant touched T.D. over her clothing with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of himself or T.D. On March 1, 2014, defendant pulled T.D.'s pants open to see her vagina while he touched himself with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of himself or T.D.

The trial court sentenced defendant to state prison for the stipulated term of 10 years, comprised of the upper term of eight years on count one, plus a consecutive term of two years (one-third the middle term) on count two. The court awarded defendant 525 days of presentence custody credit (457 actual days plus 68 days of conduct credit). It imposed a \$400 restitution fine (Pen. Code, § 1202.4, subd. (b)); a \$300 fine for the serious habitual offender program; a \$367.81 main jail booking fee and a \$67.30 main jail classification fee (Gov. Code, § 29550.2, subd. (a)); an \$80 court operations assessment (Pen. Code, § 1465.8, subd. (a)(1)); and a \$60 court facility fee (Gov. Code, § 70373). It reserved jurisdiction on the issue of victim restitution.

Defendant filed a timely notice of appeal. He did not obtain 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 that we 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 have elapsed and we have received no communication from defendant.

We note an error at sentencing. The trial court’s oral pronouncement of judgment did not include a mandatory parole revocation fine in an amount equal to that imposed pursuant to section 1202.4. (§ 1202.45; *People v. Smith* (2001) 24 Cal.4th 849, 851-852 [imposition of § 1202.4 fine requires imposition of a parole revocation fine in the same amount pursuant to § 1202.45].) Generally, an oral pronouncement of judgment controls (*People v. Mesa* (1975) 14 Cal.3d 466, 471), but where fines are mandatory, “their omission may be corrected for the first time on appeal” (*People v. Castellanos* (2009) 175 Cal.App.4th 1524, 1530). The trial court’s failure to impose and stay a \$400 mandatory parole revocation fine is sentencing error, which we correct on appeal. We will order the judgment modified to provide for the fine. Since the abstract of judgment already reflects imposition of that fine, 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.

**DISPOSITION**

The judgment is modified to impose and stay a \$400 parole revocation fine pursuant to section 1202.45. No amendment of the abstract is required. As modified, the judgment is affirmed.

We concur: BUTZ, Acting P. J.

DUARTE, J.

RENNER, J.