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NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Tehama)

THE PEOPLE, Plaintiff and Respondent, v. JON PAUL LAREAU, Defendant and Appellant.	C087381 (Super. Ct. Nos. 17CR000755, NCR96563, NCR98007)

Appointed counsel for defendant Jon Paul Lareau has 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.) We modify the judgment to incorporate the portion of the probation report providing the statutory bases for all penalty assessments imposed and make a minor correction thereto, and also direct amendment and correction of the abstract of judgment. We see no errors in calculations that result in a disposition more favorable to defendant; accordingly, we affirm the judgment as modified.

FACTUAL AND PROCEDURAL BACKGROUND

Defendant pled guilty in three different cases on October 30, 2017. In case No. 17CR000755 (burglary case), defendant pleaded guilty to burglary (Pen. Code, § 459; count I)[1] and unlawful taking or driving of a vehicle with a prior (§ 666.5; count II). He also admitted to five prior prison terms (§ 667.5, subd. (b)). The remaining count and all other allegations were dismissed.

In case No. NCR96563 (drug case), defendant pleaded guilty to possession of methamphetamine for sale (Health & Saf. Code, § 11378; count I) and auto theft with a prior (§ 666.5; count II). The enhancements were dismissed.

In case No. NCR98007 (FTA case), defendant pleaded guilty to failure to appear (§ 1320, subd. (b); count I) and admitted that count I was committed while he was out on bail (§ 12022.1). The remaining allegations were dismissed.

A probation report was prepared for all three cases and sentencing was held on April 12, 2018. The trial court denied defendant's request for probation and sentenced him to an aggregate prison term of 14 years. The court first designated count II of the burglary case as the principle term and imposed the upper term of four years, plus one-third the midterm for count I (eight months) and five years for the prior prison term enhancements. In the drug case, the court imposed consecutive one-third midterm sentences on counts I (eight months) and II (one year). In the FTA case, the court imposed one-third the midterm for count I (eight months) plus two years for the on bail enhancement, also consecutive.

The trial court then awarded defendant credits and "incorporate[d] all of the fines and fees and other recommendations as set forth on Page 13 at Line 7 of the probation report recommendation through Page 16 at Line 6 as if they were read into the record"

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[1] Further undesignated statutory references are to the Penal Code.

with both counsel's consent. The designated portion of the report contained numerous fines, fees, and penalty assessments, as well as restitution and registration requirements for all three cases. The incorporated portion did not include the schedules of "recommended financial terms," one for each of the three cases, that specifically identified for each penalty assessment the amount imposed and statutory basis therefore.

Defendant timely filed notices of appeal on June 11, 2018, and did not request certificates of probable cause.

DISCUSSION

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts and procedural history 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 from the date the opening brief was filed. More than 30 days have elapsed, and defendant has not filed a supplemental brief.

Having undertaken an examination of the entire record pursuant to *Wende*, we observe that as to the drug and burglary cases, the individual penalty assessments and statutory bases therefor are not contained in the judgment. This is due to the lack of specificity in the portion of the probation report incorporated by the trial court, which did not include the level of detail provided by the accompanying schedules of financial terms. Nor are the specific penalties and applicable statutory bases reflected in the abstract of judgment. Also, the fees for the drug case (case "c" on the abstract) are listed instead in the area reserved for case "d." This last error should be corrected when the amended abstract of judgment is prepared.

Further, the schedule of financial terms in the burglary case incorrectly reflects Government Code section 70373, subd. (a) instead of Penal Code section 1465.7 as the

basis for the court surcharge on the theft fine. This should be corrected before incorporation into the judgment.[2] No errors in defendant's favor appear.

DISPOSITION

The judgment is modified to incorporate and correct the statutory bases for the penalty assessments and their specific amounts as described in this opinion. The trial court is directed to prepare an amended and corrected abstract of judgment including the penalty assessments and their bases and to provide a certified copy thereof to the Department of Corrections and Rehabilitation. As modified, the judgment is affirmed.

/s/
Duarte, J.

We concur:

/s/
Blease, Acting P. J.

/s/
Murray, J.

[2] To the extent that the probation office is using a prepopulated form, the office should update the form to correct this error. The update should also correct the amount for the state-only DNA penalty assessment under Government Code section 76104.7, subdivision (a) to $4 for every $10 imposed (rather than $1).