Filed 3/26/19 P. v. Mills CA3

NOT TO BE PUBLISHED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. DWAYNE JOHN MILLS, Defendant and Appellant.	C087467 (Super. Ct. No. NCR97887)

Appointed counsel for defendant Dwayne John Mills 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*).) We will modify the judgment to specify the subcomponents of the penalty assessment imposed by the trial court and modify the amount imposed to conform with statutory requirements. Finding no other arguable error that would result in a disposition more favorable to defendant, we will affirm the judgment as modified.

I

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

A consolidated information charged defendant with two counts of residential burglary (Pen. Code, § 459; counts I and III)[1] and one count of receiving stolen property (§ 496, subd. (a); count II). Pursuant to a plea agreement, defendant pleaded no contest to count I and the remaining counts were dismissed. The trial court denied defendant's motion to set aside his plea for ineffective assistance of counsel. The court then, in accordance with the plea agreement, granted five years' formal probation with terms and conditions including 120 days of county jail to be served at the probation department's discretion and 44 days of custody credit. The court also imposed a $10 crime prevention fee (§ 1202.5), a $40 court operations assessment (§ 1465.8), a $30 conviction assessment (Gov. Code, § 70373), a $26 penalty assessment, and ordered defendant pay $150 in costs for preparing the presentence report (§ 1203.1b). The court further imposed a $1,200 restitution fine (§ 1202.4, subd. (b)), and imposed but stayed a corresponding probation revocation restitution fine of $1,200 (§ 1202.44). Finally, the court awarded $2,000 in victim restitution.

Defendant timely appealed and received a certificate of probable cause.

II

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. (*Wende*, *supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a

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[1] Undesignated statutory references are to the Penal Code.

supplemental brief within 30 days of the date of filing of the opening brief, but to date has not done so.

Our review of the record has disclosed the trial court's failure to identify the subcomponents comprising the $26 penalty assessment imposed as required. (*People v. Hamed* (2013) 221 Cal.App.4th 928, 937-940.) Further, the correct penalty assessment for a $10 section 1202.5 base fine in Tehama County is $29, not $26.[2] We can and will correct these issues on appeal. (*Hamed*, at p. 941 [unauthorized sentence correctable on appeal].)

Here, having imposed a $10 section 1202.5 base fine, the trial court was required to delineate and impose the following penalties: (1) a $10 penalty assessment (§ 1464, subd. (a)(1)); (2) a $7 penalty assessment (Gov. Code, § 76000, subd. (a)(1)); (3) a $2 state surcharge (§ 1465.7, subd. (a)); (4) a $5 state court construction penalty (Gov. Code, § 70372, subd. (a)(1)); (5) a $1 DNA penalty (Gov. Code, § 76104.6, subd. (a)(1)); and (6) a $4 DNA state-only penalty (Gov. Code, § 76104.7, subd. (a)). (*People v. Knightbent* (2010) 186 Cal.App.4th 1105, 1109.)

Finding no other arguable error that would result in a disposition more favorable to defendant, we will affirm the judgment as modified.

DISPOSITION

The judgment is modified to reflect the imposition of a $29 penalty assessment on the $10 base fine as follows: (1) a $10 penalty assessment (§ 1464, subd. (a)(1)); (2) a $7 penalty assessment (Gov. Code, § 76000, subd. (a)(1)); (3) a $2 state surcharge (§ 1465.7, subd. (a)); (4) a state court construction penalty of $5 (Gov. Code, § 70372, subd. (a)(1));

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[2] It appears the trial court reached a total penalty assessment of $26, and not the correct amount of $29, because of erroneous calculations from the probation report.

(5) a $1 DNA penalty (Gov. Code, § 76104.6, subd. (a)(1)); and (6) a $4 DNA state-only penalty (Gov. Code, § 76104.7, subd. (a)). The judgment is affirmed as modified.

RAYE, P. J.

We concur:

BLEASE, J.

RENNER, J.