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COURT OF APPEAL, FOURH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

WILBERT D. HARVILLE,

Defendant and Appellant.

D060539

(Super. Ct. No. SCD231107)

APPEAL from a judgment of the Superior Court of San Diego County, David M. Szumowski, Judge. Affirmed.

On January 28, 2011, Wilbert D. Harville entered a negotiated guilty plea to evading an officer with reckless driving (Veh. Code, § 2800.2, subd. (a), and possession of a concealed weapon (former Pen. Code, § 12025, subd. (a)(1)). The court placed him on three years' probation with 365 days, less custody credits, to be served in local custody. On August 24, 2011, Harville admitted being in violation of probation and the

court thereafter sentenced him to the upper prison term of three years. Harville appeals. We affirm the judgment.

## FACTS

On December 4, 2010, Police Officer Shumate observed Harville driving a vehicle that had been reported stolen. When Shumate sought to stop the vehicle, it accelerated, was driven recklessly hitting several parked vehicles and finally rolled onto its side. Harville got out of the vehicle and ran from the scene. Officers finally subdued Harville and arrested him. The officers found a firearm in the vehicle.

## DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738. Counsel mentions as possible, but not arguable, issues: (1) whether the trial court erred by imposing the upper term; (2) whether Harville's guilty plea was constitutionally valid; (3) whether the trial court erred by considering Harville's juvenile record as a factor militating against probation; (4) whether the restitution order was proper; and (5) was Harville's appointed attorney ineffective.

The transcript of the sentencing hearing sets forth the court's consideration of the aggravating factors supporting denial of probation and imposition of the upper term. No certificate of probable cause, the issuance of which is necessary to challenge a guilty plea, was requested or issued. The defendant's entire criminal record, including juvenile true findings, may be considered in determining whether probation should be granted.

Restitution is within the broad discretion of the trial court. The record is devoid of evidence the appointed trial counsel did not meet the standards of reasonably competent counsel or that the resulting sentence of Harville would have been any different had counsel taken different action.

We granted Harville permission to file a brief on his own behalf. He has not responded. A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738 has disclosed no reasonably arguable appellate issues. Harville has been competently represented by counsel on this appeal.

DISPOSITION

The judgment is affirmed.

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McDONALD, J.

WE CONCUR:

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NARES, Acting P. J.

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HALLER, J.