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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM A. BARLOW,

Defendant and Appellant.

D060966

(Super. Ct. Nos. SCE308866)

APPEAL from a judgment of the Superior Court of San Diego County, Peter C. Deddeh, Judge. Affirmed.

INTRODUCTION

William A. Barlow appeals from a judgment following a guilty plea. Appellate counsel requested this court conduct an independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. After reviewing the entire record, we identified no reasonably arguable appellate issues and affirm the judgment.

## BACKGROUND

Barlow pleaded guilty to driving a motor vehicle with a blood alcohol level of 0.08 percent or more and causing bodily injury to another (Veh. Code, §§ 23153, subd. (b), 21651, subd. (b)). Barlow additionally admitted allegations he personally inflicted great bodily injury on the victim (Pen. Code, §§ 1192.7, subd. (c)(8) & 12022.7, subd. (a)). He further admitted having two prior strike convictions involving two federal prosecutions for armed bank robbery (Pen. Code, §§ 667, subd. (b)-(i), 1170.12). At the prosecutor's request, the trial court subsequently dismissed the other charges and allegations against Barlow.

As the factual basis for his plea, Barlow stated he "drove a vehicle when my blood alcohol exceeded .15%, and did cause an accident that resulted in personal infliction of great bodily injury." Barlow subsequently told the officer who prepared the probation officer's report that he became depressed after he was fired from his job. He and some friends went to a bar where he drank too much. After leaving the bar, he dropped his friends off and was driving home when he crashed his car into the victim's car.<sup>1</sup> The report states the crash occurred while Barlow was driving the wrong way on the freeway. A second crash shortly followed, in which a speeding vehicle pushed another vehicle in the victim's car. The victim sustained multiple open fractures and lacerations to both legs.

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<sup>1</sup> Defense counsel related substantially the same facts at the sentencing hearing.

Before Barlow pleaded guilty, the trial court indicated its inclination to dismiss one of the prior strike conviction findings and impose a sentence of nine years. Consistent with this indication, at the sentencing hearing, the trial court dismissed one of the prior strike conviction findings because Barlow was a "mitigated participant" in the underlying crime, cooperated with law enforcement, led a productive life until the crash in this case, and had substantial family support to help him once he is released from prison. The trial court then sentenced Barlow to nine years in prison. The sentence consisted of the upper term of three years for the driving under the influence conviction, doubled for the prior strike conviction finding, plus three years for the great bodily injury enhancement. The trial court chose the upper term because it had dismissed one of the prior strike conviction findings and because Barlow had a high blood alcohol content and was driving the wrong way on the freeway at the time of the crash.

The trial court awarded Barlow 276 days of presentence custody credit, consisting of 240 days of actual custody credit and 36 days of conduct credit under Penal Code section 2933.1. The trial court also imposed a \$1,800 restitution fine and a \$1,800 parole revocation fine and ordered Barlow to pay a court security fee of \$40, a booking fee of \$154 and a criminal conviction assessment fee of \$30.

## DISCUSSION

Appellate counsel filed a brief summarizing the facts and proceedings below. Counsel presented no argument for reversal, but asked this court to review the record for error as mandated by *People v. Wende, supra*, 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, appellate counsel listed as a possible, but not arguable,

issue: whether Barlow's two federal convictions for bank robbery constitute strikes under California law.

We offered Barlow the opportunity to file a brief on his own behalf. He has not responded.

Our review of the entire record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the identified *Anders* issue, has not disclosed any reasonably arguable appellate issues. Appellate counsel has competently represented Barlow on appeal.

DISPOSITION

The judgment is affirmed.

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McCONNELL, P. J.

WE CONCUR:

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BENKE, J.

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HUFFMAN, J.