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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JAVON GIBBS,

Defendant and Appellant.

D061146

(Super. Ct. No. SCD235908)

APPEAL from a judgment of the Superior Court of San Diego County, Charles R. Gill, Judge. Affirmed.

I.

INTRODUCTION

Javon Gibbs pled guilty to one count of selling cocaine base (Health & Saf. Code, § 11352, subd. (a)). The parties stipulated to a five-year "split" term, such that Gibbs would serve one year in custody followed by four years of supervised probation. The trial court sentenced Gibbs to the stipulated term, but denied Gibbs's request for placement in a drug treatment program. We affirm the judgment.

## II.

### FACTUAL AND PROCEDURAL BACKGROUND

#### A. *Factual background*

In light of Gibbs's plea of guilty, there was no trial in this case. The parties stipulated that the factual basis for Gibbs's guilty plea was that Gibbs "unlawfully facilitated the sale of cocaine base to an undercover officer."<sup>1</sup>

#### B. *Procedural background*

Gibbs pled guilty to one count of selling cocaine base in violation of Health and Safety Code section 11352, subdivision (a). The trial court sentenced Gibbs to the stipulated five-year "split" term pursuant to which Gibbs would serve one year in custody and four years of supervised probation, and denied Gibbs's request for placement in a residential drug treatment program. The trial court also imposed a number of fines and fees.

On December 22, 2011, Gibbs filed a notice of appeal from the judgment based on his sentence and other matters not affecting the validity of the plea.

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<sup>1</sup> There was a preliminary hearing in this case. However, it does not appear that the court or the parties relied on the evidence presented at that hearing as the factual basis for the plea.

### III.

#### DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel indicates that he has been unable to identify any argument for reversal and instead asks this court to review the record for error, as mandated by *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Pursuant to *Anders v. California* (1967) 386 U.S. 738 (*Anders*), counsel identifies the following issue as possible, but not arguable, on appeal:

1. Whether the guilty plea is constitutionally valid;
2. Whether the trial court abused its discretion in denying Gibbs's request for placement in a residential drug treatment program;
3. Whether the trial court erred in denying Gibb's postjudgment request to withdraw his guilty plea;
4. Whether the trial court erred in denying Gibbs's request to modify his presentence custody credits; and
5. Whether the trial court properly imposed a drug program fee and a lab analysis fee.

We invited Gibbs to file a brief on his own behalf, but he has not responded.

A review of the record pursuant to *Wende, supra*, 25 Cal.3d 436 has disclosed no reasonably arguable appellate issues. Gibbs has been competently represented by counsel on this appeal.

IV.  
DISPOSITION

The judgment is affirmed.

AARON, J.

WE CONCUR:

McCONNELL, P. J.

HUFFMAN, J.