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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

KEVIN D. MELTON,

Defendant and Appellant.

D061903

(Super. Ct. No. SCD234647)

APPEAL from a judgment of the Superior Court of San Diego County, Frederick Maguire, Judge. Affirmed.

In June 2011, Kevin D. Melton was charged with two counts of inflicting corporal injury to a spouse or roommate and one count each of assault by means likely to produce great bodily injury, false imprisonment and disobeying a court order. Melton pleaded guilty to one count of inflicting corporal injury to a spouse or roommate. The court subsequently dismissed the balance of the complaint.

At sentencing, the trial court noted Melton had multiple illnesses, but "still avail[ed] himself to committing these criminal offenses." It granted Melton three years

of formal probation, under various terms and conditions, including the serving of 270 days in custody, and ordered him to report to court on October 13, 2011, for execution of custody. The court continued Melton's reporting date for medical reasons, and later vacated the reporting date to allow Melton to bring a motion to withdraw his plea. In light of the proposed motion, the court declared it would be a conflict for the alternate public defender to remain on the case, relieved him, and appointed counsel from the Office of Assigned Counsel to review the case for a possible motion to withdraw the plea. In March 2012, new counsel concluded that grounds did not exist to file a motion to withdraw the plea. Nonetheless, after considering information about Melton's medical condition, the trial court stayed the 270 days of custody and continued him on probation.

A few days later, Melton was arrested at the South Bay Probation Office as a result of a number of probation violations, including failing to report any change of address to the probation officer, testing positive for cocaine and failing to enroll in a rehabilitation program. The trial court summarily revoked Melton's probation and set an order to show cause hearing. At the hearing, the court concluded that Melton admitted the probation violation through counsel. It formally revoked but reinstated probation on the same terms previously imposed, remanded Melton to the custody of the sheriff for 270 days with credit for 133 days of custody, and authorized Melton's release to a residential rehabilitation program.

Melton filed a notice of appeal challenging the validity of his plea. He submitted a certificate of probable cause, stating, "I was un[der] the influence of [narcotics]. I had seizure. Had brain surgery for brain [aneurism]. Was not aware of pleading guilty.

Att[orney] was fired. Everything (sentencing is invalid tried to ask judge to reconsider plea. Judge did not even address on 7 Feb 2012. Just suspend 270 days [incarcerated]) which I [am] serving now." The trial court granted the certificate of probable cause.

#### DISCUSSION

Appointed appellate counsel filed a brief summarizing the facts and proceedings below. He presented no argument for reversal, but asked this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Under *Anders v. California* (1967) 386 U.S. 738 (*Anders*), counsel listed as possible but not arguable issues, whether (1) Melton knew his rights and properly waived them before he pleaded guilty, (2) medication prevented him from understanding the change of plea proceedings, (3) his attorney was fired, (4) he had a meritorious basis to bring a motion to withdraw his plea, (5) the court imposed lawful fines and fees, (6) the court imposed proper probation conditions, (7) the court properly advised him of and whether he waived his *Morrissey-Vickers* rights at the probation violation hearing (*Morrissey v. Brewer* (1972) 408 U.S. 471; *People v. Vickers* (1972) 8 Cal.3d 451), (8) sufficient evidence showed that he violated probation, and (9) he properly admitted a probation violation.

We granted Melton permission to file a brief on his own behalf. He has not responded. Our review of the record pursuant to *Wende*, including the possible issues listed by counsel pursuant to *Anders*, has disclosed no reasonably arguable issues on appeal. Competent counsel has represented Melton on this appeal.

DISPOSITION

The judgment is affirmed.

McINTYRE, J.

WE CONCUR:

NARES, Acting P. J.

HALLER, J.