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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

GREGORY EUGENE MOORE,

Defendant and Appellant.

D062068

(Super. Ct. No. SCD237133)

APPEAL from a judgment of the Superior Court of San Diego County, Dwayne K. Moring, Judge. Affirmed.

Neil Auwarter, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala Harris, Attorney General for Plaintiff and Respondent.

BACKGROUND AND DISCUSSION

Gregory Eugene Moore pleaded guilty to burglary (Pen. Code,¹ § 459; count 1) and receiving stolen property (§ 496, subd. (a); count 4.) In exchange, the People dismissed counts 2 and 3 for grand theft of personal property (§ 487, subd. (a)), count 5 for receiving a stolen vehicle (§ 496, subd. (d)), and count 6 for burglary (§ 459). The People also declined to amend the complaint to allege a charge of failure to appear. During plea bargain, the court indicated a sentencing bid of four years eight months, but left open the possibility of imposing a split sentence under section 1170, subdivision (h). At sentencing, a different judge declined to impose a split sentence, and instead sentenced Moore to four years eight months in county jail, and ordered him to pay certain fines. Moore appeals. We affirm.

Appointed counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal but asks that this court review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to possible but not arguable issues of whether: (1) Moore's custody credits were correctly calculated under section 4019; (2) the consecutive terms for counts 1 and 4 violated section 654, assuming the claim is cognizable in the absence of a certificate of probable cause; (3) his trial attorney provided ineffective assistance; and (4) he was properly ordered to pay restitution to the victim affected by an underlying count although that count was dismissed.

¹ All further statutory references are to the Penal Code.

We granted Moore permission 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 possible issues referred to by appellate counsel and the circumstances surrounding the court's taking of the plea, has disclosed no reasonably arguable appellate issues. Competent counsel has represented Moore on this appeal.

DISPOSITION

The judgment is affirmed.

O'ROURKE, J.

WE CONCUR:

HALLER, Acting P. J.

McDONALD, J.