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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

EDUARDO GUTIERREZ VELARDE,

Defendant and Appellant.

D065741

(Super. Ct. No. SCD251204)

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

Leslie A. Rose, under appointment of the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Eduardo Gutierrez Velarde was charged in a felony complaint with violations of Health and Safety Code¹ section 11378 (possession for sale of methamphetamine; count 1), section 11379, subdivision (a) (transportation of

¹ All further undesignated statutory references are to the Health and Safety Code.

methamphetamine; count 2), section 11351 (possession for sale of cocaine; count 3), and section 11352, subdivision (a) (transportation of cocaine; count 4). As to counts 1 and 2, it was alleged the methamphetamine exceeded 10 kilograms by weight within the meaning of section 11370.4, subdivisions (b)(2) and (b)(3). On counts 3 and 4 it was alleged that the cocaine exceeded 1 kilogram by weight, within the meaning of section 11370.4, subdivision (a)(1).

Velarde thereafter pleaded guilty to counts 1 and 3, and admitted the enhancement as to count 3. The enhancement relating to count 1 was amended to section 11370.4, subdivision (b)(1), and Velarde admitted that enhancement. In exchange for the guilty plea, Velarde was sentenced to a total term of six years, consisting of the midterm of three years on count 3, plus three consecutive years for the enhancement, and the midterm of two years on count 1, plus three years on the enhancement, for a total of five years concurrent to the previously ordered six years. The remaining counts and enhancements were dismissed. As a condition of the plea, Velarde waived his right to appeal.

Appellate counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *Anders v. California* (1967) 386 U.S. 738 (*Anders*) indicating she is unable to find any arguable issues for reversal on appeal. Counsel requests this court to review the record for error as required by *Wende*. We granted Velarde the opportunity to file a supplemental brief and he has not responded.

FACTUAL BACKGROUND

In October 2013 Velarde attempted to enter the United States through the Otay Mesa Port of entry. He was driving a 2004 GMC Yukon. An agent went to the rear of the vehicle and checked the spare tire underneath the cargo area of the vehicle and it felt solid. Velarde was then referred to secondary inspection, where a canine alerted to the spare tire area. The spare tire was removed and the agent found packages containing 5.23 pounds of cocaine and 27.76 pounds of methamphetamine.

DISCUSSION

As we have previously noted, appellate counsel has filed a brief pursuant to *Wende, supra*, 25 Cal.3d 436, indicating she is unable to find any arguable issues for reversal on appeal and asks this court to review the record for error as mandated by *Wende*. As required by *Anders, supra*, 386 U.S. 738, counsel has set forth three possible, but not arguable issues:

1. Was the waiver of the right to appeal valid?
2. Is Velarde's guilty plea constitutionally valid?
3. Was there a sufficient factual basis for the plea?

We have reviewed the entire record as mandated by *Wende, supra*, 25 Cal.3d 436, and *Anders, supra*, 386 U.S. 738, and have not discovered any reasonably arguable issues for reversal on appeal. Competent counsel has represented Velarde on this appeal.

DISPOSITION

The judgment is affirmed.

NARES, J.

WE CONCUR:

HUFFMAN, Acting P. J.

IRION, J.