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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID LEROY HENDERSON,

Defendant and Appellant.

E054789

(Super.Ct.Nos. RIF1101343 &
RIF10000705)

OPINION

APPEAL from the Superior Court of Riverside County. Elaine M. Johnson,
Judge. Affirmed.

Rex Williams, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

On February 2, 2010, a felony complaint, case No. RIF10000705, charged
defendant and appellant David Leroy Henderson with selling a controlled substance, to

wit, methamphetamine, under Health and Safety Code section 11379, subdivision (a) (count 1); possession of a controlled substance, to wit, methamphetamine, under Health and Safety Code section 11377, subdivision (a) (count 2); being under the influence of a controlled substance under Health and Safety Code section 11550 (count 3); and possession of drug paraphernalia under Health and Safety Code section 11364. The complaint also alleged that defendant suffered from three prior offenses under Penal Code section 667.5, subdivision (b).

On February 2, 2011, a second felony complaint, case No. RIF1101343, charged defendant with possession of a controlled substance, to wit, methamphetamine, under Health and Safety Code section 11377, subdivision (a); and possession of a weapon under Penal Code former section 12020, subdivision (a)(1) (now Pen. Code, § 21810). The complaint also alleged that defendant suffered from two prior offenses under Penal Code section 667.5, subdivision (b). The complaint further alleged that the charged offenses constituted a violation of probation in case No. RIF10000705.

On February 14, 2011, in case No. RIF1101343, defendant pled guilty to count 2. The trial court sentenced defendant to two years in state prison. The court awarded defendant 32 days of presentence credit. The trial court imposed a \$400 restitution fine under Penal Code section 1202.4, and a \$400 parole revocation fine under Penal Code section 1202.45, stayed pending successful completion of parole.

On the same day, in case No. RIF10000705, defendant pled guilty to counts 1 and 2. The trial court sentenced him to two years in state prison on count 1, and to a

concurrent term of one year four months on count 2. Thereafter, the court ordered both terms to be served concurrently to the prison term imposed in case No. RIF1101343. The court awarded defendant 260 days of presentence credit. The trial court imposed a \$400 restitution fine under Penal Code section 1202.4, and a \$400 parole revocation fine under Penal Code section 1202.45, stayed pending successful completion of parole.

On October 5, 2011, defendant filed motions to reduce his restitution fines and for an award of additional custody credits in case No. RIF1101343. The trial court denied the motions.

On October 20, 2011, defendant filed a timely notice of appeal from the denial of the motion for additional credits.

STATEMENT OF FACTS

In his motion for additional credits, defendant argued that he was awarded 260 days of custody credits in case No. RIF1101343. The abstract of judgment, however, indicated that he was awarded 32 days of custody credit. Defendant, therefore, argued that the abstract of judgment should be amended to reflect the award of 260 days of custody credits. In essence, defendant argued that because he was awarded 260 days of custody credits in case No. RIF10000705, he should have been awarded the same number of days in case No. RIF1101343. Defendant stated: “Petitioner is entitled to the 260 days credit on each of the two cases, not 32 days in one and 260 on the other, as the 2 year case, with only 32 days credit [nullifies] the credits as a whole, and effectively

denies the defendant the credits he is entitled to, and moreover was promised in the plea-arrangement.”

In case No. RIF1101343, the court awarded defendant 32 days of presentence credit. The abstract of judgment reflected the 32 days awarded.

In case No. RIF10000705, the court awarded defendant 260 days of presentence custody credit. The abstract of judgment reflected the 260 days awarded.

ANALYSIS

After defendant appealed, and upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 setting forth a statement of the case, a summary of the facts, and potential arguable issues, and requesting this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief in both cases, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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MCKINSTER
J.

We concur:

RAMIREZ
P.J.

RICHLI
J.