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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.

GARY WAYNE GREEN,

Defendant and Appellant.

E055302

(Super.Ct.No. RIF1102754)

OPINION

APPEAL from the Superior Court of Riverside County. Richard Todd Fields,
Judge. Affirmed.

Howard Cohen, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

On June 27, 2011, a felony complaint charged defendant and appellant Gary Wayne Green with theft under Penal Code¹ section 484, a felony (count 1). The complaint also alleged two prior prison term enhancements under section 667.5, subdivision (b). The complaint further alleged that defendant had been convicted of a serious and violent felony within the meaning of sections 667, subdivisions (c) and (e)(1), and 1170.12, subdivision (c)(1).

On October 27, 2011, defendant pled guilty to count 1 and admitted the strike allegation. The complaint formed the factual basis for defendant's guilty plea. The parties agreed that defendant would be sentenced to the low term of 16 months, doubled under the three strikes law for a total of 32 months. The trial court sentenced defendant to the agreed-upon term of 32 months and dismissed the prior term allegations.

Thereafter, the trial court imposed various fines and fees, and awarded defendant custody credits of actual time of 14 days and six days under section 4019.

On December 27, 2011, defendant filed his notice of appeal.

On April 30, 2012, defendant, in propria persona, wrote to the superior court seeking a lesser sentence; the court denied the motion on May 10, 2012. On April 24, 2012, appellate counsel sent a motion to correct section 4019 credits to increase half-time credits to one-for-one credits. The trial court did not rule on this motion. On May 23, 2012, appellate counsel filed a request to augment the record to include defendant's letter

¹ All statutory references are to the Penal Code unless otherwise specified.

and the motion. On June 4, 2012, we granted defendant's request and the documents were deemed a part of the record on appeal. Moreover, we noted that the "Motion for Day-for-Day Credits" did not appear on the trial court's website as having been received. We directed the clerk of this court to make a copy of the motion and to transmit the copy to the superior court clerk's office. We directed the superior court clerk to forward the motion to the Honorable Richard Fields. We then requested Judge Fields to rule on the motion and provide this court and appellate counsel a supplemental record on appeal containing the ruling. On June 12, 2012, the trial court filed a supplemental clerk's transcript containing the minute order on the day-for-day motion. The trial court denied the motion.

STATEMENT OF FACTS

Defendant did willfully and unlawfully steal and take personal property of another, i.e., miscellaneous property of K-Mart, and had been convicted three or more times of the crime of theft. For each of these offenses, defendant served time in custody. Defendant also sustained a conviction for burglary of a habitation in the State of Texas in 1994.

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, 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:

HOLLENHORST
Acting P. J.
KING
J.