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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.

MATTHEW TODD BORDEAU,

Defendant and Appellant.

E056150

(Super.Ct.No. FMB1200046)

OPINION

APPEAL from the Superior Court of San Bernardino County. Rodney A. Cortez, Judge. Affirmed.

Alan S. Yockelson, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

**INTRODUCTION**

On March 22, 2012, defendant and appellant Matthew Todd Bordeaux pled nolo contendere to one count of multiple, nonsufficient fund checks in violation of Penal

Code<sup>1</sup> section 476a, subdivision (a) (count 1). The underlying charge stemmed from five incidents between July 31, 2011, and August 14, 2011, wherein defendant wrote, cashed, or deposited worthless checks through an account at U.S. Bank. Defendant also admitted two prison priors under section 667.5, subdivision (b), and a prior strike for first degree burglary, in violation of section 459, from April 5, 2007.

Defendant requested that he be sentenced immediately. The trial court imposed the upper term of three years as to count 1, doubled because of the strike prior, with an additional and consecutive year for each of his two prison priors; defendant was sentenced for a total term of eight years. Defendant was also ordered to pay the following fines and fees: appointed counsel fees and costs of \$500; a criminal assessment and court operations assessment of \$70; a restitution fine of \$240 under section 1202.4; and a parole revocation restitution fine of \$240 under section 1202.45, stayed pending successful completion of parole. In addition, defendant was ordered to submit DNA and fingerprint samples under section 296, subdivision (a)(1). Pursuant to a stipulation by counsel, the court ordered defendant presentence credit of 34 actual days, plus 34 days of conduct credit under section 4019, for a total of 68 days.

On April 20, 2012, a hearing was held wherein defendant requested that counsel be appointed and that his plea be withdrawn. Defense counsel stated that, immediately after sentencing, defendant requested to withdraw his plea. The court recalled that they

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<sup>1</sup> All statutory references are to the Penal Code unless otherwise specified.

had “conferenced this case at length,” and defendant had gone “back and forth.” The court, therefore, refused to appoint conflict counsel and denied his motion.

On April 27, 2012, defendant filed a notice of appeal challenging the validity of the plea; but the court denied his request for a certificate of probable cause, and labeled the notice of appeal as “inoperative.” An amended notice of appeal was filed on May 17, 2012, challenging “the sentence or other matters occurring after the plea.”

On June 15, 2012, having retained jurisdiction on the issue of victim restitution, the trial court conducted a restitution hearing. Defendant waived his presence for the hearing. The parties stipulated that the amount of \$1,400.50 be awarded to the victim, U.S. Bank, and the court ordered that amount under section 1202.4.

### **STATEMENT OF FACTS<sup>2</sup>**

From July 31, 2011 through August 14, 2011, defendant unlawfully and fraudulently did “make, draw, utter, and deliver checks and drafts for the payment of money[,] . . . knowing at the time such making, drawing, uttering, and delivering, that [defendant] had not sufficient funds in, and credit with, said bank to meet the said checks and drafts and all other checks, drafts, and orders upon such funds then outstanding in full upon their presentation for payment; the said defendant(s) at all of said times having the intent then and there to cheat and defraud said persons and corporation(s).”

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<sup>2</sup> Since defendant pled guilty, the parties stipulated that the police reports and complaint would provide a factual basis for defendant’s plea.

## 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.

RICHLI  
J.