

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

THERESA CAMILLE MORDAUNT,

Defendant and Appellant.

E056801

(Super.Ct.No. FVA1101714)

OPINION

APPEAL from the Superior Court of San Bernardino County. Steven A. Mapes, Judge. Affirmed with directions.

John Derrick, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Theresa Camille Mordaunt (defendant) was arrested on August 28, 2010, after a California Highway Patrol officer responded to dispatch concerning a report that a vehicle had run off the road on Interstate 15 “and was now driving around in the desert.” The officer found a vehicle matching the description, including the Nevada

license plate number, which was given to the dispatcher. The vehicle was stopped on the right shoulder. The officer approached the car and found defendant asleep, face down across the seat. When the officer woke her, he could smell alcohol and her eyes were red and watery. Before asking her to step out of the car, the officer asked her if she had been in an accident. She said she had not, but admitted that she had been driving the car. While talking to her, the officer could smell alcohol on her breath. He asked her to step out of the car, and when she did so, she walked into the right traffic lane. Her gait was unsteady and stumbling. He then placed her under arrest.

Defendant was charged with felony driving under the influence of alcohol or drugs in violation of Vehicle Code section 23152, subdivision (a) (count 1) and with felony driving with a blood-alcohol level of 0.08 percent or higher, in violation of Vehicle Code section 23152, subdivision (b) (count 2).

With respect to both counts, it was further alleged that defendant had suffered three prior convictions:

A violation of Vehicle Code section 23152, subdivision (b), with a conviction date of November 28, 2011;

A violation of Vehicle Code section 23152, subdivision (a), with a conviction date of November 3, 2011;

A violation of Vehicle Code section 23152, subdivision (b), with a conviction date of November 3, 2011.

The three prior convictions elevated the charged offenses to felonies, pursuant to Vehicle Code section 23550, subdivision (a).¹

Defendant filed a motion to suppress evidence pursuant to Penal Code section 1538.5. She withdrew the motion on May 22, 2012, and on that same date pleaded guilty to count 2 and admitted the three prior convictions. In return, count 1 was dismissed and defendant was sentenced to a term of eight months in state prison. The parties stipulated that the preliminary hearing transcript demonstrated a factual basis for the plea.

The sentence, which is one-third the middle term of two years, was imposed consecutive to the sentence in case number FVA1100532.

Defendant filed a notice of appeal, stating that the appeal is based solely on the denial of the Penal Code section 1538.5 motion.

We appointed counsel to represent defendant on appeal. After examination of the record, counsel filed an opening brief raising no issues and asking this court to

¹ As in effect on August 28, 2010, the date of the charged offenses, Vehicle Code section 23550, subdivision (a) provided:

“If a person is convicted of a violation of Section 23152 and the offense occurred within 10 years of three or more separate violations of Section 23103, as specified in Section 23103.5, or Section 23152 or 23153, or any combination thereof, that resulted in convictions, that person shall be punished by imprisonment in the state prison, or in a county jail for not less than 180 days nor more than one year, and by a fine of not less than three hundred ninety dollars (\$390) nor more than one thousand dollars (\$1,000). The person’s privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (9) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.”

independently review the record.² We offered defendant the opportunity to file any supplemental brief she deemed necessary. Defendant did not file a supplemental brief.

We have examined the entire record and have found no judicial error. (As we discuss below, we have found clerical errors.) We are satisfied that defendant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109–110; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

We note that the sentencing minutes erroneously state that the prior conviction allegations were dismissed and that the abstract of judgment erroneously states that the consecutive sentence imposed in this case is the principal term. A consecutive term is by definition a subordinate term. (Pen. Code, § 1170.1, subd. (a).) These are clerical errors which can be corrected at any time (*People v. Mesa* (1975) 14 Cal.3d 466, 471 [minute order diverging from oral pronouncement of judgment]; *People v. Mitchell* (2001) 26 Cal.4th 181, 185 [abstract of judgment, same]), and we will direct the superior court to do so.

DISPOSITION

The superior court is directed to correct the sentencing minutes to reflect that the prior conviction allegations were admitted by defendant and were not stricken, and to correct the abstract of judgment to delete the notation “principal” on the first page of the abstract. Within 30 days after the finality of this opinion, the superior court shall transmit the corrected minutes and corrected abstract of judgment to the parties and to the

² Counsel described several potential issues he apparently considered but rejected.

Department of Corrections and Rehabilitation.³ In all other respects, the judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS.

McKINSTER
_____ J.

We concur:

HOLLENHORST
_____ Acting P. J.

CODRINGTON
_____ J.

³ Although by the date of sentencing defendant had already served the eight months imposed in this case, she apparently remains in custody on one or more other convictions, including her conviction for burglary and attempted robbery in San Bernardino Superior Court case number FVA1100532. (See *People v. Mordaunt* (Feb. 21, 2013, E055279), [nonpub. opn.])