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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.

THOMAS ROBERT DILKS,

Defendant and Appellant.

E062688

(Super.Ct.No. FVI1401985)

OPINION

APPEAL from the Superior Court of San Bernardino County. John M. Tomberlin, Judge. Affirmed.

Richard Jay Moller, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

On October 10, 2014, an amended information charged defendant and appellant Thomas Robert Dilks with one count of unlawful driving or taking a vehicle. (Veh. Code, § 10851, subd. (a); count 1.) The information also alleged that defendant had

suffered (1) a strike prior (Pen. Code, §§ 245, 667, subds. (b)-(i), 1170.12, subds. (a)-(d)); and (2) six prison priors (Pen. Code, § 667.5, subd. (b)).

On September 26, 2014, the trial court denied defendant's motion under *People v. Marsden* (1970) 2 Cal.3d 118.

On October 3, 2014, the trial court denied defendant's motion under *Faretta v. California* (1975) 422 U.S. 806 because it was untimely.

On October 10, 2014, defendant pled no contest to a lesser included charge of attempted auto theft (Pen. Code, § 664; Veh. Code, § 10851, subd. (a)), and admitted the strike prior, in exchange for a 16-month prison sentence.

On November 14, 2014, the trial court sentenced defendant to one-half the lower term of 16 months, or eight months, doubled for the strike prior, for a total of 16 months. The court imposed a \$300 restitution fine (Pen. Code, § 1202.4, subd. (b)); imposed and stayed a \$300 parole revocation fine (Pen. Code, § 1202.45); imposed a court security fine (Pen. Code, § 1465.8); and imposed a criminal assessment fine (Gov. Code, § 70373). The court also awarded defendant 153 actual days and 153 conduct credit days for a total of 306 days.

On December 15, 2014, defendant filed a request for the court to order the prison to comply with the court's order of presentence conduct credits of 153 days and to order the prison to give him 20 percent conduct credit for his actual days since sentencing. On January 6, 2015, the trial court set a hearing for March 24, 2015. On April 6, 2015, we received a copy of a letter from defense counsel submitted to the trial court. In the letter, defense counsel stated that at the hearing on March 24, 2015, the parties and the trial

court agreed that defendant should have been released many weeks ago. Defense counsel asked the trial court to reconsider the court's decision that it could not release defendant immediately while the case is pending in our court.

On January 7, 2015, defendant filed a timely notice of appeal based on the sentence or other matters that occurred after the plea.

STATEMENT OF FACTS

Since defendant pled guilty, the evidence is summarized from the preliminary hearing: Sometime between May 18 through 20, 2012, a truck at a construction site was driven about three-quarters of a mile away without permissions. DNA analysis of the blood found in the truck matched defendant's blood.

DISCUSSION

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, and he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no error.

DISPOSITION

The judgment is affirmed.

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MILLER
J.

We concur:

RAMIREZ
P. J.

CODRINGTON
J.