

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

CINDI LERAE FINLEY,

Defendant and Appellant.

F062478

(Fresno Sup. Ct. No. F09904357)

**OPINION**

**THE COURT**\*

APPEAL from a judgment of the Superior Court of Fresno County. Denise L. Whitehead, Judge.

Deborah Prucha, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

-ooOoo-

---

\* Before Wiseman, Acting P.J., Poochigian, J. and Franson, J.

## **INTRODUCTION**

Appellant/defendant Cindi Lerae Finley pleaded no contest to first degree burglary (Pen. Code,<sup>1</sup> §§ 459/460, subd. (a)) and was sentenced to two years in prison. On appeal, her appellate counsel has filed a brief which summarizes the facts, with citations to the record, raises no issues, and asks this court to independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) We will affirm.

## **FACTUAL AND PROCEDURAL BACKGROUND**

On July 25, 2009, a person who lived at the Fresno Inn on Parkway Drive reported that he had lost his apartment key two weeks earlier and never changed the lock. The person further reported that he had just discovered that someone had entered his apartment and stolen his computer that day.

Another resident reported that “Sammy,” a drug dealer who frequented the area, had been parked in front of the victim’s room earlier that day. Sammy gave a key to defendant and Gary Proctor. Proctor unlocked the victim’s door and they walked in. Sammy left the room, got into his car, and drove to the back. Proctor handed a computer to defendant through a bathroom window. Defendant put the computer in Sammy’s car, and Sammy handed cash to defendant.

The police located defendant, who admitted she was involved in the burglary. Defendant said Sammy promised to pay her if she helped him steal the victim’s computer. Defendant admitted Proctor handed the computer to her through a window, she gave it to Sammy, and Sammy paid her \$10. Defendant said she needed the money to buy alcohol so she would not go into withdrawals.

---

<sup>1</sup> All further statutory citations are to the Penal Code unless otherwise indicated.

### **The complaint, plea, and failure to appear**

On July 28, 2009, a complaint was filed in the Superior Court of Fresno County charging defendant with first degree burglary. Defendant pleaded not guilty and was released on her own recognizance.

On February 3, 2010, defendant pleaded no contest to the charged offense, with the understanding that she would be sentenced to no more than the midterm of four years in prison; she would be allowed to remain out of custody pending the sentencing hearing; she could receive a court-indicated sentence of probation if she met the conditions imposed by the court; and an unrelated misdemeanor case would be dismissed. Defendant was further advised that if she violated any of the terms and conditions, she would not receive the benefit of her plea agreement, and she could be sentenced to state prison for up to six years. The court set the sentencing hearing for March 22, 2010.

On March 22, 2010, defendant failed to appear for the sentencing hearing. The court issued and then held a bench warrant for defendant's arrest, pending the continued sentencing hearing of March 29, 2010. On that day, however, defendant again failed to appear, and the court issued the bench warrant for defendant's arrest.

### **Sentencing**

On February 23, 2011, defendant reappeared in court after being taken into custody. She was held on a no-bail warrant. Defendant waived time for sentencing, and the court continued the matter.

On March 11, 2011, the court conducted the sentencing hearing, denied probation, and sentenced defendant to the lower term of two years in state prison, with 36 days of credit (24 actual days, 12 credit days).<sup>2</sup> The court also ordered defendant to pay a \$200

---

<sup>2</sup> The 2010 and later amendments to section 2933 do not entitle defendant to additional conduct credit because she has been committed for first degree burglary, a serious felony. (*People v. Vigil* (2011) 191 Cal.App.4th 1474, 1489; § 1192.7, subd. (c)(18).)

restitution fine (§ 1202.4, subd. (b)); a \$200 fine (§ 1202.45), which was suspended pending future parole revocation; a \$30 court security fee (§ 1465.8); and a \$30 criminal conviction assessment.

On May 16, 2011, defendant filed a notice of appeal. The superior court granted her request for a certificate of probable cause.

### **DISCUSSION**

As noted *ante*, defendant's appellate counsel has filed a *Wende* brief with this court. The brief also includes the declaration of appellate counsel indicating that defendant was advised she could file her own brief with this court. By letter on September 29, 2011, we invited defendant to submit additional briefing. To date, she has not done so.

After independent review of the record, we find that no reasonably arguable factual or legal issues exist.

### **DISPOSITION**

The judgment is affirmed.