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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

BRIAN JAMES GUERRERO,

Defendant and Appellant.

F065547

(Super. Ct. Nos. 12CM1655 &  
12CM0790)

**OPINION**

**THE COURT**\*

APPEAL from a judgment of the Superior Court of Kings County. Steven D. Barnes, 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.

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\* Before Cornell, Acting P.J., Gomes, J., and Franson, J.

In April 2012, in Kings County Superior Court case No. 12CM0790 (first case), appellant, Brian James Guerrero, pleaded guilty to possession of methamphetamine (Health & Saf. Code, § 11377, subd. (a)) and was placed on three years' Proposition 36 drug treatment probation, i.e., probation under the Substance Abuse and Crime Prevention Act of 2000 (Pen. Code, § 1210 et seq.).

In July 2012, in Kings County Superior Court case No. 12CM1655 (second case), appellant, pursuant to a plea agreement, pleaded no contest to first degree burglary (Pen. Code, §§ 459, 460, subd. (a)) and admitted violating his probation in the first case. The plea agreement provided that appellant would receive a prison sentence of four years in the first case and a concurrent two-year term in the second case.

In August 2012, the court imposed the agreed upon sentence.

Appellant filed a timely notice of appeal. He did not request, and the court did not issue, a certificate of probable cause (Pen. Code, § 1237.5).

Appellant's appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, with citations to the record, raises no issues, and asks that this court independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) Appellant has not responded to this court's invitation to submit additional briefing. We affirm.

## FACTS<sup>1</sup>

In the second case, the prosecutor, upon being asked to state the factual basis for appellant's plea, told the court that if the case had proceeded to trial, the evidence would

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<sup>1</sup> Our factual summary is limited to the facts of the second case. The facts of the first case are not relevant to the instant appeal. (See *People v. Glaser* (1965) 238 Cal.App.2d 819, 821, disapproved on other grounds in *People v. Barnum* (2003) 29 Cal.4th 1210, 1218-1219, 1225 ["Although an appeal may lie from a subsequent order, which revokes probation and places the sentence into effect, the matters arising prior to pronouncement of judgment cannot thereby be reviewed".])

have shown the following: On May 4, 2012, a young woman was at home, in her room, “charging her Iphone [*sic*] which [was] just inside the window.” Appellant “walked by, saw the Iphone [*sic*], reached inside the room and took that item.”

### **DISCUSSION**

Following independent review of the record, we have concluded that no reasonably arguable legal or factual issues exist.

### **DISPOSITION**

The judgment is affirmed.