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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

DONAJEAN GODWIN,

Defendant and Appellant.

G046014

(Super. Ct. No. 10NF3934)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Vickie L. Hix, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Anita P. Jog, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

\* \* \*

We appointed counsel to represent Donajeane Godwin on appeal. Counsel filed a brief that set forth the facts of the case. Counsel did not argue against her client but advised the court no issues were found to argue on her behalf. Godwin was given

30 days to file written argument on her own behalf. That period has passed, and we have received no communication from her.

Pursuant to *Anders v. California* (1967) 386 U.S. 738 (*Anders*), to assist the court in conducting its independent review, counsel set forth the facts and provided the court with information as to issues that might arguably support an appeal. We have reviewed the information provided by counsel and have independently examined the record. We found no arguable issues. (*People v. Wende* (1979) 25 Cal.3d 436.) We affirm the judgment.

## FACTS

A complaint filed December 28, 2010, charged Godwin with possession of a controlled substance (Health & Saf. Code, § 11377, subd. (a)), and possession of drug paraphernalia (Health & Saf. Code, § 11364). She pleaded guilty to both counts and was placed on three years' formal probation under Proposition 36. (Pen. Code, § 1210, et. seq.) In April 2011, after Godwin failed three times to appear for monitoring review hearings, the trial court revoked Proposition 36 probation, ordered her to serve 270 days in jail, and placed her on formal probation.

On October 27, 2011, a probation revocation petition was filed alleging Godwin violated probation conditions that she not use drugs and violate no laws. The petition alleged that in October 2011, Godwin tested positive for methamphetamine twice, and her probation officer found her in possession of a controlled substance (Hydrocodone pills), for which she had no valid prescription.

At a probation revocation hearing on October 31, 2011, Godwin admitted her probation violation. The trial court revoked and reinstated probation, and ordered Godwin to serve 90 days in jail. She was awarded nine days of custody credit (seven actual custody and two days of conduct credit). Godwin filed a notice of appeal; she did not obtain a certificate of probable cause.

## DISCUSSION

Pursuant to *Anders, supra*, 386 U.S. 738, appellate counsel invited this court's attention to two issues to assist in our independent review: (1) whether Godwin was properly advised of her constitutional rights and of the consequences of admitting the probation violation; and (2) whether there was a sufficient factual basis for admitting the probation violation. Because Godwin did not request a certificate of probable cause, neither point is cognizable on appeal. (Cal. Rules of Court, rule 8.304(b).) And in any event, Godwin was adequately advised of her constitutional rights and waived her right to an evidentiary hearing before admitting she had violated probation (see *People v. Clark* (1996) 51 Cal.App.4th 575, 581-583, criticized on another point by *People v. Mendez* (1999) 19 Cal.4th 1084, 1097-1098, fn. 7), and the petition provides an adequate factual basis for her plea (see *People v. Holmes* (2004) 32 Cal.4th 432, 440, 443).

We may consider grounds for appeal arising after Godwin's plea that do not affect its validity. (Cal. Rules of Court, rule 8.304(b)(4)(B).) We have reviewed the calculation of Godwin's custody credits and find they were properly calculated using the "two-for-four" formula under Penal Code section 4019, subdivisions (b) and (c).

## DISPOSITION

The judgment is affirmed.

O'LEARY, P. J.

WE CONCUR:

BEDSWORTH, J.

FYBEL, J.