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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

BRENDA JEAN MURRY,

Defendant and Appellant.

H037944

(Santa Clara County
Super. Ct. No. C1103634)

Defendant Brenda Jean Murry was charged by complaint filed in March 2011 with possessing a forged driver's license (former Pen. Code, § 470b;¹ count 1), using personal identifying information without authorization (former § 530.5, subd. (a); count 2), two counts of acquiring access card information with fraudulent intent (§ 484e, subd. (d); counts 3 & 4), and fraudulent use of an access card (§§ 484g, subd. (a), 488; count 5, a misdemeanor). According to the complaint, the crimes took place on or about February 25, 2011.

In August 2011, defendant pleaded no contest to all five counts with the understanding that she would receive four months in county jail. The probation officer subsequently prepared a waived referral memorandum that indicated that defendant had

¹ All further statutory references are to the Penal Code unless otherwise indicated.

charged more than \$1,000 without authorization against the credit cards of at least two victims.

In February 2012, the trial court suspended imposition of sentence and placed defendant on probation for three years with various terms and conditions, including that she serve four months in county jail. Defendant was granted 25 days of custody credits, consisting of 13 actual days plus 12 days conduct credit pursuant to section 4019.² The court imposed a \$200 restitution fine and a 10 percent administration fee pursuant to former section 1202.4, a suspended \$200 probation revocation restitution fine pursuant to section 1202.44, and a \$10 fine pursuant to section 1202.5. The court determined that other amounts would not be imposed on defendant, based on a determination that defendant did not have the ability to pay.³ The court continued a hearing on victim restitution.

Defendant filed a timely notice of appeal and we appointed counsel to represent her in this court. Appointed counsel has filed a brief in this court which states the case and facts but which raises no issues. We notified defendant of her right to submit written

² Effective September 28, 2010, section 4019 was amended to provide that a defendant may earn conduct credit at a rate of two days for every four-day period of actual custody. (Stats. 2010, ch. 426, §§ 2, 5 [former § 4019, subs. (b), (c) & (f)].) This rate applied to defendants who were confined for a crime committed on or after September 28, 2010. (Stats. 2010, ch. 426, §§ 2, 5 [former § 4019, subd. (g)].) Operative October 1, 2011, the current version of section 4019 generally provides that a defendant may earn conduct credit at a rate of two days for every two-day period of actual custody. (§ 4019, subs. (b), (c) & (f).) The current version of section 4019 provides that the conduct credit rate “shall apply prospectively and shall apply to prisoners who are confined . . . for a crime committed on or after October 1, 2011. Any days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law.” (§ 4019, subd. (h).)

³ Any amounts required to be imposed under section 1465.8 and Government Code sections 70373 and 29550.1 are not subject to a defendant’s ability to pay. (See *People v. Kim* (2011) 193 Cal.App.4th 836, 842; *People v. Woods* (2010) 191 Cal.App.4th 269, 272.)

argument in her own behalf within 30 days. That period has elapsed and we have received no response from defendant. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 and *People v. Kelly* (2006) 40 Cal.4th 106, we have reviewed the entire record and have concluded that there is no arguable issue on appeal.

The judgment (order of probation) is affirmed.

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

ELIA, ACTING P.J.

MÁRQUEZ, J.