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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

EDWIN JAVIER CACERES,

Defendant and Appellant.

H038414

(Santa Clara County

Super. Ct. No. C1108014)

In a negotiated disposition, defendant Edwin Javier Caceres pleaded no contest to one count of the theft or unauthorized use of a 2003 Toyota Tundra pick-up truck. In exchange for Caceres's plea, the court released him on his own recognizance and agreed that if he abstained from committing further crimes by the time of sentencing, he would receive credit for time served, the felony conviction would be reduced to a misdemeanor, and a second count of receipt or purchase of a stolen vehicle would be dismissed. At sentencing, the plea bargain was implemented and Caceres was placed on informal probation for three years. He was later ordered to pay \$6,928.57 in victim restitution, part of which Caceres contested, and he appealed from that order. We have conducted an independent review of the record to determine whether there is any arguable issue on appeal. Having found no such issue, we will affirm the restitution order.

DISCUSSION

I. *Factual Background*¹

On May 10, 2011, Bruce Meeker contacted police to report that his 2003 Toyota Tundra pick-up truck had been stolen from where it had been parked on the street in San Jose. Meeker showed the responding police officer the broken glass on the ground where the truck had been parked, which was likely where the glass had fallen after the truck's window was shattered in the theft. Meeker provided the license plate number and confirmed that he had not given anyone permission to drive the truck.

On May 21, 2011, a Santa Clara police officer saw Caceres sitting behind the wheel of Meeker's truck, identified by its license plate, while the truck was parked on the street in the City of Santa Clara. Another unidentified person was sitting in the passenger seat. The officer approached the truck and noticed the broken driver's side window. He also saw broken glass inside the truck's cab and found a receipt bearing Meeker's name. The officer arrested Caceres, who provided his full name and date of birth to the arresting officer.

II. *Procedural Background*

After being bound over for trial, Caceres was charged by information on August 25, 2011, with one felony count of the theft or unauthorized use of Meeker's truck, in violation of Vehicle Code section 10851, subdivision (a), and one felony count of receipt or purchase of the stolen truck in violation of Penal Code section 496d. On October 17, 2011, Caceres pleaded no contest to the first count, in exchange for the court releasing him on his own recognizance and agreeing to credit him with time served, reducing the conviction to a misdemeanor, and dismissing the second count at sentencing if Caceres abstained from committing additional crimes in that interim.

¹ The factual background is derived from the preliminary hearing transcript and the waived referral reports.

At sentencing on March 9, 2012, Caceres was placed on three years' informal probation, count one was reduced to a misdemeanor, and count two was dismissed, per the plea bargain. Caceres received credit for time served, and the court imposed various fines and fees. At a later contested hearing on victim restitution, the court ordered Caceres to pay Meeker \$6,928.57, which represented all of Meeker's claimed losses, including the value of the camper shell and other personal items missing from the truck. Caceres conceded the value of Meeker's losses in connection with the damage to the truck itself but contested the amounts relating to the missing personal items on the asserted basis that he had not been proven to be the cause of those losses. Caceres timely appealed the restitution order, a post-judgment order appealable after a plea of guilty or no contest but not affecting the validity of the plea, under Rule 8.304(b)(4)(B) of the California Rules of Court.

DISCUSSION

We appointed counsel to represent defendant in this court. Appointed counsel filed an opening brief, which included his declaration concerning his own review of the record and his communication with Caceres about the nature of the brief that stated the case and the facts but raised no specific issues. We notified Caceres of his right to submit written argument on his own behalf within 30 days. We have received no written argument from him.

We have reviewed the entire record pursuant to *Anders v. California* (1967) 386 U.S. 738, and *People v. Wende* (1979) 25 Cal.3d 436. Based upon that review, we have concluded that there is no arguable issue on appeal. (*People v. Johnson* (1981) 123 Cal.App.3d 106, 109 [issue is "arguable" when it has some potential for success, meaning some possibility of a result requiring reversal or modification of the judgment].)

DISPOSITION

The restitution order is affirmed.

Márquez, J.

WE CONCUR:

Elia, Acting P.J.

Bamattre-Manoukian, J.