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

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM JAMES KEY,

Defendant and Appellant.

H038455

(Monterey County

Super. Ct. No. SS091686)

Appellant William James Key has a long history of drug related offenses. He appeals from a judgment entered after he was found to have violated his probation and after his latest conviction for child endangerment.

In 2009, appellant was charged with three separate counts of possession of a controlled substance (count 1, heroin, Health & Saf. Code, § 11350, subd. (a); count 2, oxycodone, Health & Saf. Code, § 11350, subd. (a); and count 3, diazepam, Health & Saf. Code, § 11375, subd. (b)(2)), and with an additional misdemeanor charge for resisting arrest. (Count 4, Pen. Code, § 148, subd. (a)(1).) On July 13, 2009, he pled guilty to counts 1 and 4. Appellant was placed on probation as to count 4; as to count 1, deferred entry of judgment (DEJ) was recommended, then granted on August 18, 2009.

On November 5, 2009, a first violation of probation was alleged for a new offense of violating Penal Code section 4573.6 (jail controlled substance charge). On April 14, 2010, the trial court found appellant in violation of the DEJ terms. On

June 8, 2010, the court terminated DEJ and imposed drug court supervision. On January 21, 2011, the trial court suspended imposition of sentence and placed appellant on probation with various conditions.

Subsequently, on February 17, 2012, the court terminated appellant from drug court for violations, summarily revoked probation, and issued a bench warrant. On April 23, 2012, further violations of probation were alleged for failure to report to drug treatment court, as well as new drug charges for possession of a smoking pipe (Health & Saf. Code, § 11364, subd. (a)), child endangerment (Pen. Code, § 273a, subd. (a)), and possession of a syringe (former Bus. & Prof. Code § 4140), and failure to abstain from use of drugs. On May 1, 2012, appellant pled no contest to the Penal Code section 273a, subdivision (a), child neglect charge as a misdemeanor, and admitted a violation of probation based solely on this newly alleged violations of law.

On June 14, 2012, the court ordered that probation be revoked and reinstated in the 2009 case, with a 25 day jail sentence, and 25 days credit for time served. On the new misdemeanor case, the court granted probation on the condition that appellant serve 180 days in jail, but awarded no credits. Counsel for appellant objected to the denial of credits pursuant to *People v. Bruner* (1995) 9 Cal.4th 1178, arguing that dual credits were proper because the probation violation was based on the new violation and that the custody time was served for both. The court overruled the objection. A timely notice of appeal challenging the sentencing ensued on June 15, 2012.

On December 20, 2012, while the appeal was pending, the trial court reconsidered its order on credits in the misdemeanor case, and awarded 112 days of credits, based on 56 actual days and 56 days of conduct credits.

Thereafter, appointed counsel filed an opening brief which states the case and the facts but raises no specific issues. We notified defendant of his right to submit written argument in her own behalf within 30 days. Thirty days have elapsed and we have received nothing from the defendant. Pursuant to our obligation as set forth in *People v.*

Wende (1979) 25 Cal.3d 436, we have reviewed the record but have found no arguable issues on appeal. Therefore, we will affirm the judgment.

DISPOSITION

The judgment is affirmed.

RUSHING, P.J.

WE CONCUR:

PREMO, J.

ELIA, J.