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

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL NIEBLAS,

Defendant and Appellant.

H040766

(Santa Clara County
Super. Ct. No. F1244495)

I. INTRODUCTION

After defendant Daniel Nieblas violated the terms of his probation, probation was revoked and reinstated. The trial court modified the original terms and conditions of probation by ordering him to serve a jail term of six months to be served concurrently with defendant's sentence in another case.

Defendant filed a timely notice of appeal, and we appointed counsel to represent him in this court. Appointed counsel has filed an opening brief that states the case and facts but raises no issue. We notified defendant of his right to submit written argument on his own behalf within 30 days. The 30-day period has elapsed and we have received no response from defendant.

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *People v. Kelly* (2006) 40 Cal.4th 106 (*Kelly*), we have reviewed the entire record. Following the

California Supreme Court's direction in *Kelly, supra*, at page 110, we provide "a brief description of the facts and procedural history of the case, the crimes of which the defendant was convicted, and the punishment imposed."

II. FACTUAL BACKGROUND

The sole source of the factual background is the February 2014 petition for modification of terms of probation, which states: "On October 16, 2012, officers attempted to conduct a welfare check in a small embankment. Officers located two tents in the bushes. The defendant was found to be on active searchable parole. A search revealed .1 grams of heroin[]. The defendant was arrested and taken into custody."

III. PROCEDURAL BACKGROUND

On October 19, 2012, defendant pleaded no contest to the felony charge of possession of heroin in violation of Health & Safety Code section 11350, subdivision (a). At the sentencing hearing, imposition of sentence was suspended and defendant was placed on formal probation for three years.

Additionally, the trial court ordered defendant to pay a \$264 restitution fine (Pen. Code, § 1202.4, subd. (b)(2)) and suspended the imposition of the parole revocation restitution fine (Pen. Code, § 1202.44). The court also ordered payment of a court security fee of \$40 (Pen. Code, § 1465.8, subd. (a)(1)), a criminal conviction assessment fee (also known as a booking fee) of \$130 (Gov. Code, § 70373), a criminal justice administration fee of \$259.50 (Gov. Code, § 29550.1), a criminal laboratory analysis fee of \$50 (Health & Saf. Code, § 11372.5) and a probation supervision fee of \$110 per month.

A petition for modification of terms of probation was filed on February 13, 2014. The petition stated that defendant had violated the terms of his probation by failing to report for scheduled office appointments in the probation department, failing to make himself available for search and testing, failing to provide proof of educational/vocational training/employment, and willfully failing to pay court-ordered fines and fees.

The hearing on violation of probation was held on February 20, 2014. Defendant waived his right to a formal hearing and admitted that he was in violation of probation as described in the petition for modification of terms of probation. The trial court modified the original terms and conditions of probation by ordering him to serve a jail term of six months to be served concurrently with defendant's sentence in another case. No conduct credits were awarded because defendant was currently serving a sentence.

The trial court denied defendant's request for a certificate of probable cause pursuant to Penal Code section 1237.5, subdivision (b). The trial court's March 3, 2014 order states that the court, having reviewed the record of defendant's admission of his probation violation, found no merit in defendant's contention that his attorney had not explained his rights to a hearing, to cross-examine witnesses, or to present a defense. The court also found no merit in defendant's contention that his attorney had not " 'explained the truth' " concerning defendant's conduct credits.

IV. WENDE ANALYSIS

Having carefully reviewed the entire record, we conclude that there are no arguable issues on appeal. (*Wende, supra*, 25 Cal.3d at pp. 441-443.)

V. DISPOSITION

The judgment (order of probation) is affirmed.

BAMATTRE-MANOUKIAN, ACTING P.J.

WE CONCUR:

MIHARA, J.

GROVER, J.