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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

SERGIO ANTHONY VIAYRA  
DUARTE,

Defendant and Appellant.

2d Crim. No. B276421  
(Super. Ct. Nos. 16F-01075,  
16F-00140)  
(San Luis Obispo County)

Sergio Anthony Viayra Duarte pled no contest to charges against him in two criminal cases. He appeals the sentence he received for the two cases, which was reached in a plea agreement. The appeals do not affect the validity of Duarte's pleas. (Pen. Code, § 1237.5; Cal. Rules of Court, rule 8.304(b)(4)(B), (5).)<sup>1</sup>

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<sup>1</sup> Unlabeled statutory references are to the Penal Code.

Case No. 16F-00140

Duarte was charged with (1) second degree burglary for entering a U.S. Post Office with the intent to commit larceny (§ 459) and (2) identity theft (§ 530.5, subd. (c)(3)). The complaint alleged four prior convictions/prison terms.

In a plea agreement on January 13, 2016, Duarte pled no contest to both counts and admitted the four prior prison terms. He was released from custody, with an order to return for sentencing on February 17, 2016, and to commit no new offenses. If he complied, Duarte's sentence would be capped at four years; if he failed to comply, he could be sentenced to seven years, eight months in jail.

Case No. 16F-01075

Twenty-two days after entering his no contest plea, Duarte committed new crimes on February 4, 2016. He was charged with (1) evading a police officer (Veh. Code, § 2800.2, subd. (a)); (2) receiving stolen property (§ 496, subd. (a)); and (3) identity theft (§ 530.5, subd. (a)). The complaint alleged four prior prison terms and, as an enhancement, that Duarte was out of custody on bail when he committed the crimes. Duarte pled no contest to two counts, evading a police officer and identity theft.

Sentencing

On February 25, 2016, Duarte agreed in open court to a disposition incorporating both cases. The prosecutor agreed to dismiss two other pending cases against Duarte. Duarte agreed to a total of seven years in state prison.

Duarte was sentenced to a seven-year term on May 17, 2016. In Case No. 16F-00140, Duarte was sentenced to a three-year upper base term for burglary, a concurrent term of three years for identity theft, and a consecutive term of four years

for the four prior prison terms. In Case No. 16F-01075, Duarte was sentenced to two years on the evading count and two years on the identity theft count, both terms running concurrently with Case No. 16F-00140. Duarte received presentence credits and restitution fines and mandatory fees were imposed.

Duarte appealed the sentence. We appointed counsel to represent Duarte in this appeal. After examining the record, counsel filed an opening brief raising no issues. On December 7, 2016, we advised Duarte that he had 30 days within which to personally submit any contentions or issues that he wishes to raise on appeal. We received no reply.

We have reviewed the entire record and are satisfied that Duarte's attorney fully complied with his responsibilities and that no arguable issue exists. (*People v. Wende* (1979) 25 Cal.3d 436, 441, 443; *People v. Kelly* (2006) 40 Cal.4th 106, 126.)

The judgment is affirmed.

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PERREN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

Dodie A. Harman, Judge  
Superior Court County of San Luis Obispo

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California Appellate Project, Jonathan B. Steiner,  
Richard B. Lennon, under appointment by the Court of Appeal,  
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.