

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

JONATHAN DUKE,

Defendant and Appellant.

B283598

(Los Angeles County
Super. Ct. No. MA 057733)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Lisa M. Chung, Judge. Affirmed.

Melissa J. Kim, under appointment by the Court of Appeal,
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In an unpublished opinion, we reversed the first degree murder conviction (Pen. Code, §§ 187, 189) of defendant and appellant Jonathan Duke. (*People v. Duke* (Jan. 17, 2017, B264579).) We offered the prosecution the option either to retry Duke for first degree murder, or to accept a modification of the judgment to reflect a conviction for second degree murder. (See *People v. Thomas* (2013) 218 Cal.App.4th 630, 647 [“ ‘ “An appellate court is not restricted to the remedies of affirming or reversing a judgment. Where the prejudicial error goes only to the degree of the offense for which the defendant was convicted, the appellate court may reduce the conviction to a lesser degree and affirm the judgment as modified, thereby obviating the necessity for a retrial.” ’ ”].) The prosecution chose the latter option, and the trial court resentenced Duke to 15-years-to-life in prison.

Duke filed a timely notice of appeal requesting review of the credits he was awarded for time served prior to resentencing and unspecified other issues. We appointed counsel to represent Duke in the matter. After examining the record, counsel filed a *Wende*¹ brief raising no issues on appeal and requesting that we independently review the record. On January 16, 2018, we sent a letter to Duke and to counsel. In the letter, we directed counsel to immediately send the record on this appeal and a copy of the *Wende* brief to Duke and informed him that he had 30 days to submit by letter or brief any ground of appeal, contention or argument he wished us to consider. We have received no communication from Duke.

We have reviewed the entire record on appeal. Although the record did not initially contain an amended abstract of judgment reflecting the credits Duke received for his time in prison prior to resentencing, as required by *People v. Buckhalter* (2001) 26 Cal.4th 20, 37, the trial court later corrected this oversight. The record now reflects an amended abstract of

¹ *People v. Wende* (1979) 25 Cal.3d 436.

judgment that correctly credits Duke for having served 1,708 days as of the date of his resentencing on June 27, 2017.

We are satisfied that Duke's counsel has fully complied with her responsibilities and that no arguable appellate issue exists. (*Wende, supra*, 25 Cal.3d at p. 441; *People v. Kelly* (2006) 40 Cal.4th 106, 110.)

DISPOSITION

The judgment of the trial court is affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

CHANEY, J.

JOHNSON, J.