

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

ANDREW JACKSON KIRK,

Defendant and Appellant.

2d Crim. No. B269652  
(Super. Ct. No. 15F-06154)  
(San Luis Obispo County)

Andrew Jackson Kirk was charged with the unlawful driving or taking of a vehicle. (Veh. Code, § 10851, subd. (a).) Convictions from 1984, 1998 and 2006 were alleged as prior strikes and prison terms. (Pen. Code, §§ 667, 667.5, subd. (b), 1170.12.)

Shortly after his arrest, Kirk pled no contest and admitted one prior strike in return for a four-year sentence, comprised of the midterm of two years, doubled to four years for the strike. Kirk subsequently moved to withdraw his plea. Following briefing and argument, the trial court denied the motion and sentenced Kirk to four years in state prison. Kirk was awarded 189 days of presentence custody credit.

Kirk timely appealed his sentence, but he did not request a certificate of probable cause to allow him to appeal the denial of his motion to withdraw the no contest plea. The appeal lies as to noncertificate issues only. (Pen. Code, § 1237.5; Cal. Rules of Court, rule 8.304.)

We appointed counsel to represent Kirk in this appeal. After examining the record, counsel filed an opening brief raising no issues and requesting that we independently examine the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

On June 28, 2016, we advised Kirk in writing that he had 30 days within which to personally submit any contentions or issues he wished to raise on appeal. We have received no response.

According to the probation report, Kirk was driving a car which the police spotted at the scene of an accident. The vehicle had been reported stolen. Kirk lied and told police he had borrowed the vehicle from its owner.

We have examined the record and are satisfied that Kirk's attorney has fully complied with the responsibilities of counsel and that no arguable issue exists. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

The judgment is affirmed.

NOT TO BE PUBLISHED.

PERREN, J.

We concur:

GILBERT, P. J.

TANGEMAN, J.

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

---

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

No appearance for Plaintiff and Respondent.