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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

MIGUEL MUNOZ,

Defendant and Appellant.

B293507

(Los Angeles County
Super. Ct. No. SA094919)

THE COURT:

Defendant and appellant Miguel Munoz (defendant) appeals from an order entered on September 6, 2018, reinstating probation after revocation. He seeks a reversal of his 2017 judgment so that he can move to withdraw his plea entered at that time. His appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, raising no issues. On July 18, 2019, we notified defendant of his counsel's brief and gave him

leave to file, within 30 days, his own brief or letter stating any grounds or argument he might wish to have considered. That time has elapsed, and defendant has submitted no brief or letter. We have reviewed the entire record, and finding no arguable issues, affirm the judgment.

Defendant was charged with evading a police officer while driving recklessly, in violation of Vehicle Code section 2800.2 (count 1); taking a vehicle without consent in violation of Vehicle Code section 10851, subdivision (a) (count 2); giving false information to a peace officer in violation of Vehicle Code section 31 (count 3); and misdemeanor resisting a peace officer in violation of Penal Code section 148, subdivision (a)(1) (count 4). It was further alleged that defendant had suffered three prior convictions for which defendant served time in custody within the meaning of section 667.5, subdivision (b).

On February 15, 2017, defendant entered into a plea agreement which required him to plead no contest to counts 1 and 3, and counts 2 and 4 would be dismissed. The trial court suspended imposition of sentence and placed defendant on probation for a period of five years, on enumerated terms and conditions, including a term of 180 days in jail, with combined custody credit of 37 days, and completion of a one-year outpatient drug treatment program.

In December 2017, defendant's probation was revoked and reinstated after defendant stipulated to a violation of probation. The trial court ordered defendant to serve 36 days in jail with credit equal to time served, and to return to an outpatient drug treatment program. In May 2018 defendant requested a change in programs, and the court ordered him to complete a 10-month residential treatment program. The following month, the order

was modified to six months of residential drug treatment and four months of aftercare.

In July 2018, defendant was arrested for driving a stolen vehicle, and his probation was again revoked. Defendant admitted to a violation of probation. On September 6, 2018, the trial court reinstated probation, ordered defendant to serve 365 days in the Fresh Start treatment program without receiving custody credits while in treatment, and ordered him to serve 76 days in jail with credit equal to time served. The trial court was thereafter notified that due to warrant holds in Orange and San Bernardino Counties, defendant could not be transferred to his treatment program. On October 12, 2018, the court ordered defendant's conditional release so that he could clear the warrants and return on October 29.

On October 15, 2018, defendant filed a notice of appeal from the September 6, 2018 order, with a request for a certificate of probable cause. Defendant sought to withdraw his plea, and accept the prosecution's initial plea-bargain offer due to the difficulty he had in entering a drug treatment program. The trial court denied the request without prejudice to defendant renewing his request at the probation modification hearing scheduled for October 29, 2018.¹

We have examined the entire record and find no arguable issue exists. We conclude that defendant has received adequate and effective appellate review of the order entered in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

¹ That hearing has not been made a part of the record on appeal.

The order entered September 6, 2018, is affirmed.

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ASHMANN-GERST, Acting P. J. CHAVEZ, J. HOFFSTADT, J.