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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

PAUL GONZALEZ,

Defendant and Appellant.

B297111

(Los Angeles County
Super. Ct. No. KA073741)

APPEAL from an order of the Superior Court of Los Angeles County, Rob B. Villeza, Judge. Affirmed.

California Appellate Project, Richard Lennon and Ann Krausz, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Paul Gonzalez appeals from the trial court's order denying his motion to vacate the fines and fees imposed following his no contest plea to possession of a controlled substance. (Health & Saf. Code, § 11377, subd. (a).) Appellant's counsel on appeal filed a *Wende* brief (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)) requesting that we conduct an independent review of the record. We have reviewed the record and conclude that no arguable issues exist. Accordingly, we affirm.

BACKGROUND

In 2006, appellant was charged with count 1, possession of a controlled substance (Health & Saf. Code, § 11377, subd. (a)), and count 2, misdemeanor possession of a smoking device (Health & Saf. Code, § 11364, subd. (a)). He pled no contest to count 1 pursuant to Proposition 36, Penal Code section 1210 et seq.¹ The trial court placed appellant on formal probation for three years under the terms and conditions of Proposition 36 and dismissed the charge of possession of a smoking device pursuant to section 1385. The court also imposed a restitution fine pursuant to section 1202.4, subdivision (b), and other requisite fines and fees (§§ 1210.1, subd. (a), 1464; Health & Saf. Code, § 11372.5; Gov. Code, § 76000.)

On April 2, 2007, appellant admitted to violating probation. The court revoked probation and sentenced appellant to 16 months in state prison. The court ordered appellant to pay a restitution fine of \$200

¹ Unspecified statutory references will be to the Penal Code.

(§ 1202.4, subd. (b)) and imposed and stayed a parole restitution fine of \$200 (§ 1202.45).

In 2019, appellant asked the court to stay the fines and fees and hold a hearing on his ability to pay, pursuant to *People v. Dueñas* (2019) 30 Cal.App.5th 1157 (*Dueñas*). Appellant contended that he was indigent at the time of sentencing and that the court failed to determine his ability to pay. The trial court denied the motion. Appellant appealed without obtaining a certificate of probable cause.²

DISCUSSION

After reviewing the record, appellant's court-appointed counsel filed an opening brief, pursuant to *Wende, supra*, 25 Cal.3d 436, asking this court to conduct an independent review of the record to determine whether any arguable issues exist. On July 11, 2019, we advised appellant he had 30 days within which personally to submit any contentions or issues he wished us to consider. To date, we have received no response.

Relying on *Dueñas*, appellant asked the trial court to stay all the fines that were imposed until the court held a hearing and determined he was no longer indigent. However, as the trial court explained in denying appellant's motion, appellant did not object to the fines and fees at sentencing. Appellant therefore has forfeited the ability to raise the claim. (See *People v. Frandsen* (2019) 33 Cal.App.5th 1126, 1153-

² Because appellant only raises issues that occurred after the plea and do not affect its validity, we may reach the merits of his appeal without a certificate of probable cause. (Cal. Rules of Court, rule 8.304(b)(4)(B).)

1155 [defendant forfeited the ability to challenge mandatory assessments and a restitution fine by failing to object at sentencing].)

We have reviewed the record in accordance with our obligations under *Wende*. We are satisfied that appellant's counsel fully complied with their responsibilities, that appellant received adequate and effective appellate review of the judgment in this action and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109–110; *Wende, supra*, 25 Cal.3d at p. 443.)

DISPOSITION

The order appealed from is affirmed.

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WILLHITE, J.

We concur:

MANELLA, P. J.

CURREY, J.