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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

EUGENE EVERAL BAIRD,

Defendant and Appellant.

B290427

(Los Angeles County
Super. Ct. No. VA141348)

APPEAL from a postjudgment order of the Superior Court of Los Angeles County, Yvonne T. Sanchez, Judge. Affirmed.

Eugene Everal Baird, in pro. per.; and Leonard J. Klaif, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Eugene Everal Baird (Baird) appeals from a postjudgment order. Finding no error, we affirm.

BACKGROUND

On December 14, 2016, Baird pleaded no contest to various charges in superior court case No. VA141348 and was sentenced to four years four months in prison with 365 days of presentence custody credit. At the time of sentencing, the trial court neglected to specify whether the sentence was to be served consecutively or concurrently to a two year sentence that Baird was already serving in superior court case No. GA096926 for which he was awarded 569 days of presentence custody credit. Baird appealed and we affirmed, but directed the trial court to correct the minute order and abstract of judgment to indicate that the sentence in case No. VA141348 was to run concurrently to case No. GA096926 pursuant to the provisions of Penal Code section 669.

On April 3, 2018, the trial court made the corrections as directed, but did not make any adjustments to Baird's custody credits.

On May 25, 2018, Baird timely filed a notice of appeal.

On September 20, 2018, court-appointed counsel for Baird filed an opening brief and requested the court to conduct an independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. The next day, we advised Baird that he had 30 days to submit by brief or letter any contentions or argument he wished this court to consider.

On October 4, 2018, Baird submitted a letter brief in which he appears to assert that the trial court should have applied his presentence custody credit from case No. GA096926, for which he

was serving a concurrent sentence, to his sentence in case No. VA141348.

On October 30, 2018, at Baird's request, we took judicial notice of two pages of the minute order in case No. GA096926.

DISCUSSION

When Baird was sentenced in case No. VA141348 to four years four months in prison, the trial court awarded him 365 days of credit. At the time, Baird had already been sentenced to two years in prison with 569 days of credit in case No. GA096926, though he had not completed the earlier sentence. Pursuant to our directions in Baird's first appeal, these sentences were to run concurrent to each other. If, as here, a defendant is sentenced concurrently in two or more proceedings held at different times, "the resulting combination of terms to be served does not alter the credit allocation" to the defendant. (*People v. Adrian* (1987) 191 Cal.App.3d 868, 876.) As such, the trial court was correct in applying only 365 days of credit to Baird's sentence in case No. VA141348.

Therefore, after our independent review of the record, we are satisfied Baird's attorney has fully complied with the responsibilities of counsel and no arguable issue exists. (*People v. Kelly* (2006) 40 Cal.4th 106, 126; *People v. Wende, supra*, 25 Cal.3d at p. 441.)

DISPOSITION

The postjudgment order is affirmed.

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DHANIDINA, J.

We concur:

EDMON, P. J.

LAVIN, J.