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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

ARTHUR MANUEL VILLEGAS,

Defendant and Appellant.

B283108

(Los Angeles County
Super. Ct. No. KA110581)

APPEAL from a judgment of the Superior Court of Los Angeles County, Jack P. Hunt, Judge. Affirmed with directions.

Phillip A. Treviño, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

* * * * *

Defendant Arthur Manuel Villegas appeals following his admission of a violation of his probation. The trial court revoked defendant's probation and sentenced him to two years in custody. Defendant filed a timely notice of appeal from the revocation and ensuing judgment, and he requested that the court issue a certificate of probable cause to appeal. The trial court denied the requested certificate of probable cause.

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), defendant's counsel filed an opening brief requesting this court review the record and determine whether any arguable issues exist on appeal. We have reviewed the entire record and find no arguable issues exist, but we find an error in the abstract of judgment and will order the clerk of court to issue a corrected abstract of judgment. In all other respects, we affirm.

BACKGROUND

In 2015, defendant pled guilty to a narcotics sales charge (Health & Saf. Code, § 11379) and was placed on probation. Later, after committing multiple probation violations, appellant appeared at a revocation hearing. During this hearing the court noted it had read the probation officer's violation report, and offered defendant an indicated sentence of two years in custody if he admitted the violation.

After conferring with defendant, defense counsel advised the court his client wished to admit the violation and accept the proposed disposition. Defendant admitted he violated the terms of his probation grant and waived his right to a formal probation violation hearing, his right to confront and cross-examine the witnesses who might testify against him, his right to subpoena witnesses on his behalf, his right to present a defense, and his right against self-incrimination. Defense counsel joined in defendant's waivers and admission.

The court found the waivers were knowingly, intelligently, and understandably made, that the admission was freely and voluntarily given, and that defendant understood the nature of the allegations against him and the consequences of his admission.

The court revoked defendant's grant of probation and sentenced him, *inter alia*, to the low term of two years in custody. The court granted defendant 238 days of credit for a prior sentence, and an additional 21 days of actual time plus 20 days of conduct credits, with a total credit of 279 days against the two-year sentence. The court reimposed all fines and fees previously in effect and imposed a \$300 probation revocation fine.

As noted, defendant filed a timely notice of appeal and requested a certificate of probable cause, which the trial court denied.

DISCUSSION

We appointed counsel to represent defendant on this appeal. After review of the record, defendant's court-appointed counsel filed an opening brief asking this court to review the record independently pursuant to *Wende, supra*, 25 Cal.3d at page 441. On January 18, 2018, we advised defendant he had 30 days to submit any contentions or issues he wished us to consider. Defendant did not file a supplemental brief.

We note that in most instances a defendant cannot appeal from a probation violation admission absent a certificate of probable cause issued by the court. (Pen. Code, § 1237.5; Cal. Rules of Court, rule 8.304(b)(1).) There are two exceptions to this rule: a certificate is not required if the appeal is based on "[t]he denial of a motion to suppress evidence under Penal Code section 1538.5," or "[g]rounds that arose after entry of the plea and do not affect the plea's validity." (Cal. Rules of Court, rule 8.304(b)(4)(B).)

In this case, the court denied defendant's request for the issuance of a certificate of probable cause. Thus, to the extent defendant failed to obtain this certificate, his appeal of his probation revocation is not cognizable. We have examined the entire record. We are satisfied no arguable noncertificate issues exist and appellant's counsel has fully satisfied his responsibilities under *Wende*. (*Smith v. Robbins* (2000) 528 U.S. 259, 279-284; *Wende, supra*, 25 Cal.3d at p. 441; see *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

The abstract of judgment must be corrected, however, to indicate the court's imposition of the \$300 probation revocation fine at the hearing on defendant's probation revocation. At defendant's original plea hearing, the court imposed but suspended the \$300 probation revocation fine pursuant to Penal Code section 1202.44. Having revoked his probation, the court imposed the fine, but the abstract of judgment does not so indicate.

DISPOSITION

The clerk of court is directed to issue a corrected abstract of judgment reflecting the imposition of the probation revocation fine pursuant to Penal Code section 1202.44 and forward a copy of the corrected abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

ROGAN, J.*

WE CONCUR:

RUBIN, Acting P. J.

GRIMES, J.

* Judge of the Orange Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.