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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

SALVADOR USEBIOROY
COLMENERO,

Defendant and Appellant.

E086046

(Super.Ct.No. PARS2500383)

OPINION

APPEAL from the Superior Court of Riverside County. Laurie Burns, Judge.

Affirmed.

Matthew Johnson, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Salvador Usebioroy Colmenero appeals the Riverside County Superior Court's revocation of his parole pursuant to Penal Code sections 1203.2 and 3000.08.¹ We affirm.

BACKGROUND

Defendant is a high-risk sex offender who, in September 2021, suffered a conviction for possession of a controlled substance in violation of Health and Safety Code section 11377, subdivision (a). He was released on parole a year later with a supervision expiration date in 2026. Defendant's parole conditions included participating in continuous electronic monitoring using a global positioning system (GPS) device, which was attached to his ankle. He was required to charge the device for at least an hour no less often than every 12 hours.

In March 2025, defendant allowed the battery on the GPS to discharge completely, resulting in his whereabouts being unknown for six hours until he was arrested. As a result, the People petitioned to revoke defendant's parole and, after a contested hearing, the trial court granted the petition and sentenced defendant to county jail for 180 days. Defendant appealed and we appointed counsel to represent him.

DISCUSSION

Defendant's counsel has filed a brief in accordance with *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *Anders v. California* (1967) 386 U.S. 738 setting forth a statement of the case and a summary of the facts and asking us to conduct an independent

¹ All further statutory references are to the Penal Code.

review of the record. Relying on *Wende, supra*, at pages 440–442, counsel posits, that we are required to review the record to determine if it reveals any issue that, if resolved favorably to defendant, would result in reversal or modification of the judgment. He suggests a potentially arguable issue: whether the trial court erred when it imposed 180 days for defendant’s first parole violation.

Contrary to counsel’s suggestion, an appeal from a postjudgment order revoking parole does not implicate the protections afforded by *Wende, supra*, 25 Cal.3d at pages 441–442, such as requiring independent review of the record by Courts of Appeal if appointed counsel files a no-issues brief. (*People v. Delgadillo* (2022) 14 Cal.5th 216, 226–228 (*Delgadillo*).) Rather, appointed appellate counsel who are unable to find an arguable issue in a postjudgment appeal must file a brief informing the appellate court of that determination and include a concise recitation of the facts bearing on the court’s orders. (*Id.*, at p. 231.) Upon receipt of the brief, the appellate court is to send a copy of it to the defendant along with a notice informing the defendant (i) of the right to file a supplemental letter or brief, and (ii) that the failure to file a letter or brief within 30 days may result in dismissal of the appeal. (*Id.*, at pp. 231–232.)

If the defendant files a brief or letter, the court is required to evaluate the arguments he or she raises and must issue a written opinion. (*Delgadillo, supra*, 14 Cal.5th at p. 232.) If the defendant does not respond to the court’s notice, however, then the court may exercise its discretion to dismiss the appeal as abandoned. (*Ibid.*) If it chooses to dismiss, it may do so with or without a written opinion. (*Ibid.*) In all cases, the court has discretion to conduct an independent review of the record. (*Ibid.*)

In this case, we notified defendant that his counsel had filed a brief stating no arguable issues could be found and that this court may, but is not required, to conduct an independent review of the record, citing *Delgadillo, supra*, 14 Cal.5th 216. When our first notice to defendant was returned, we obtained an updated address for defendant from his counsel and re-sent the notice. In our notice, we invited defendant to file any arguments he deemed necessary and cautioned that failure to timely file a supplemental brief might result in the dismissal of his appeal as abandoned. Defendant did not file a brief.

Although we properly sent a *Delgadillo* notice to defendant, it is reasonably possible that defendant may have been confused by, or even relied upon, the incorrect information provided by his counsel that *Wende* procedures apply to his case. Accordingly, we independently reviewed the record on appeal, and found no error.

DISPOSITION

The order revoking defendant's parole is affirmed.

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RAMIREZ
P. J.

We concur:

CODRINGTON
J.
FIELDS
J.