

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

CHARLES JEROME EASLEY,

Defendant and Appellant.

B255541

(Los Angeles County
Super. Ct. No. SA085062)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Mark E. Windham, Judge. Appeal dismissed.

Athena Shudde, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant, Charles Jerome Easley, appeals from the judgment entered following his plea of no contest to first degree burglary, and his admission to prior prison term and prior serious felony conviction enhancement allegations (Pen. Code, §§ 459, 667.5, 667, subds. (a)-(i)).¹ The trial court sentenced Easley to 15 years in state prison.

We dismiss Easley's appeal as inoperative because he failed to obtain a certificate of probable cause.

FACTUAL AND PROCEDURAL BACKGROUND

*1. Facts.*²

On August 22, 2013, at 1:30 a.m., defendant Easley went to a residence on 21st Street in Santa Monica and pried open a window to gain entry. Diane Case and her roommate were asleep in the residence when Easley entered. However, when Case heard a noise on the wooden staircase, she yelled out for her roommate and Easley fled with Case's guitar.

Case called 911. As police officers were responding, they saw Easley walking on 21st Street carrying a guitar and arrested him.

2. Procedural history.

On August 26, 2013, Easley was charged by complaint with burglary of an inhabited dwelling and possession of burglar's tools (§§ 459, 466). It was also alleged he had sustained four prior convictions that qualified as serious felonies and strikes (§ 667, subds. (a)-(i)), and that he had served four prior prison terms (§ 667.5).

On January 7, 2014, Easley entered into a plea agreement by which he pled no contest to first degree burglary and admitted the truth of two prior prison term enhancement allegations, as well as the truth of a prior conviction allegation that qualified as both a strike and a prior serious felony. The remaining counts and allegations were to be dismissed.

¹ All further references are to the Penal Code unless otherwise specified.

² The facts have been taken from the probation report.

Easley was sentenced on February 19, 2014. The trial court imposed the middle term of four years for the burglary conviction, doubled it under the Three Strikes law, and then added five years for the prior serious felony conviction and another two years for the prior prison terms. The court ordered Easley to pay a \$280 restitution fine (§ 1202.4), a \$40 court operations assessment (§ 1465.8), a \$70 criminal conviction assessment (Gov. Code, § 70373), and suspended a \$280 parole revocation fine (§ 1202.45). The court awarded Easley presentence custody credit for 182 days actually served and 27 days of good time/work time, for a total of 209 days.

Easley filed a notice of appeal and request for a certificate of probable cause on March 28, 2014. The trial court denied the certificate of probable cause on April 8, 2014.

DISCUSSION

Easley has asked this court to augment the record on appeal with the reporter's transcript of trial court proceedings held on February 5, 2014 and March 11, 2014, on the ground these materials are pertinent to show that his no contest plea should be vacated due to various instances of ineffective assistance of counsel.

However, because Easley's claim goes to the validity of the no contest plea itself, it is not cognizable on appeal without a certificate of probable cause granted by the trial court pursuant to section 1237.5. (See *People v. Johnson* (2009) 47 Cal.4th 668, 673 ["defendant who desires to appeal from a criminal judgment on the ground that counsel rendered ineffective assistance regarding the defendant's request to withdraw a guilty or no contest plea first must obtain a certificate of probable cause"].)

Because Easley pleaded no contest and failed to obtain a certificate of probable cause, his appeal must be dismissed as inoperative.³ (See *People v. Mendez* (1999) 19 Cal.4th 1084, 1094-1099.)

³ Because of this determination we deny, as moot, Easley's pending motions to augment the record on appeal and for more time within which to file a supplemental brief on appeal.

DISPOSITION

The appeal is dismissed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EDMON, P. J.

We concur:

KITCHING, J.

EGERTON, J.*

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