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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.

JAMES DAVIS,

Defendant and Appellant.

B295228

(Los Angeles County
Super. Ct. No. LA085169)

APPEAL from a judgment of the Superior Court of Los Angeles County, Susan M. Speer, Judge. Affirmed.

David Zarmi, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Conforming to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), Davis's counsel filed an opening brief containing a statement of facts but raising no issues. Counsel asks this court to review the record independently and to determine whether any arguable issues exist on appeal. We have reviewed the entire record and find no arguable issues exist. Davis has submitted a supplemental brief which raises no appealable issues. We affirm.

All citations are to the Penal Code, unless otherwise specified. The facts of the underlying crimes established at trial are not relevant to the present appeal so we do not provide a summary. A relevant procedural history follows.

I

A jury found Davis guilty of kidnapping for carjacking (§ 209.5, subd. (a); count 1), carjacking (§ 215, subd. (a); count 2), driving or taking a vehicle without consent (Veh. Code, § 10851, subd. (a); count 3), possession of a firearm by a felon (§ 29800, subd. (a)(1); count 4), second degree robbery (§ 211; count 5), grand theft property (§ 487, subd. (a); count 6), and second degree burglary (§ 459; count 7). The jury found true allegations that Davis personally used a firearm (§ 12022.53, subd. (b); counts 1, 2, 3, 5), and that he personally inflicted great bodily injury (§ 12022.7, subd. (a); counts 1, 2, 5).

Davis admitted he suffered a prior strike within the meaning of the Three Strikes law (§§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d)) for a juvenile adjudication for second degree robbery, and that he served two prior prison terms (§ 667.5, subd. (b)).

The trial court sentenced Davis to a total term of 33 years to life. For the kidnapping for carjacking conviction, Davis was sentenced to life with the possibility of parole, with the minimum

parole eligibility period for that count doubled to 14 years given Davis's prior strike. The court also imposed an additional and consecutive high term of 10 years for the firearm enhancement, and three years for the great bodily injury enhancement. The court also imposed a consecutive high term of three years for the second degree burglary conviction, which was doubled to six years given Davis's prior strike. The court imposed and stayed sentencing on counts 2, 3, 4, 5, and 6. (§ 654.) The court struck the two prior prison term allegations given the length of the already-imposed prison term. (§ 1385.)

Davis timely appealed, which resulted in the first appeal in this case: case number B284324, decided by this division.

Davis argued two points on his first appeal. First, he argued that the carjacking conviction in count 2 must be dismissed because it is a lesser included offense of the kidnapping for carjacking conviction in count 1. We agreed and ordered the carjacking conviction dismissed. Second, Davis argued the case should be remanded to allow the trial court to exercise newfound discretion to strike the firearm enhancements under sections 12022.5, subdivision (c), and 12022.53, subdivision (h). We agreed and remanded the case.

Upon remand, the trial court recognized its newfound discretion to strike the firearm enhancements but found that "due to the extensive factors in aggravation that were already . . . articulated at the time of sentencing," the lack of mitigating factors, and because the "case was extremely aggravated and serious," it exercised its "discretion to not strike or stay any of the gun allegations." The court dismissed the carjacking conviction.

II

Davis filed a notice of appeal from the December 10, 2018 hearing that took place to address the issues on remand from this court. We appointed counsel to represent Davis and his counsel filed a *Wende* brief. Counsel declared he reviewed the record. Counsel wrote to Davis explaining his evaluation of the record. Counsel further declared he advised Davis of his right under *Wende* to submit a supplemental brief.

Davis filed a supplemental brief on July 30, 2019. Davis raises multiple issues in this brief, but all stem from the underlying trial. None of the issues in Davis's supplemental brief address the present appeal from the December 10, 2018 hearing. Accordingly, Davis's supplemental brief does not raise any appealable issues.

We have examined the entire record of the proceedings consisting of the clerk's transcript and reporter's transcript and are satisfied that appointed counsel fully complied with his responsibilities in assessing whether any colorable appellate issues exist. There are no arguable appellate issues. (*People v. Kelly* (2006) 40 Cal.4th 106; *Wende, supra*, 25 Cal.3d 436.)

DISPOSITION

The judgment is affirmed.

WILEY, J.

We concur:

BIGELOW, P. J.

GRIMES, J.