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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID GORDON MOUNTFORD,

Defendant and Appellant.

B287050

(Los Angeles County
Super. Ct. No. LA071647)

APPEAL from an order of the Superior Court of Los Angeles County, Joseph A. Brandolino, Judge. Affirmed.

David Gordon Mountford, in pro. per., and Nancy L. Tetreault, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

David Gordon Mountford (Mountford) pleaded nolo contendere to one count of grand theft of property with a value in excess of \$950. (Pen. Code,¹ § 487, subd. (a).) The court sentenced him to a seven-year suspended sentence, and imposed the sentence after Mountford violated the terms of his probation. Mountford petitioned the court for resentencing pursuant to Proposition 47, but the court denied the petition on the ground that his conviction rendered him ineligible for Proposition 47 relief. On appeal, Mountford argues that the court erred in denying his petition, and further argues that his conviction should be reversed and the charges dismissed because his plea and sentence are void.

On March 30, 2012, Mountford spoke on the telephone with Paul Bloomfield, a salesperson for the AAERO² Sweet Company (AAERO), to inquire about selling his 2005 Lincoln LS. AAERO is a company that purchases and sells used cars. During the telephone conversation, Mountford told Bloomfield that he had the title to the car. Bloomfield and Mountford met later that day, and Mountford showed Bloomfield a Department of Motor Vehicles form identifying Mountford as the owner of the vehicle. There was no lien holder named on the form, and the form did not show any encumbrances on the car. When Bloomfield asked Mountford for the title, Mountford stated that he had lost it.

Despite Mountford's inability to produce the title, Bloomfield agreed to purchase the vehicle. Bloomfield testified that AAERO routinely purchased vehicles from people who had

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

² There is no definition of the acronym AAERO in the record.

lost the title documents. Bloomfield asked Mountford to sign an application for duplicate title and informed Mountford that AAERO would process the application. Mountford signed the application and Bloomfield gave Mountford a check for \$5,635. Mountford subsequently cashed the check.

The AAERO employee who processed the application for duplicate title discovered that the Lincoln LS was subject to a \$8,088 lien held by 101 Vermont Ford and Hyundai (101 Hyundai). Mountford purchased the Lincoln LS from 101 Hyundai in July of 2010, and subsequently defaulted on the loan. AAERO was forced to satisfy the lien in order to obtain clear title to the vehicle. Bloomfield negotiated a settlement with 101 Vermont Ford and Hyundai and paid them \$5,000 to satisfy the debt. AAERO claimed its loss to be this \$5,000 payment.

Bloomfield called Mountford several times, but was never able to reach him. Bloomfield also went to Mountford's purported business address, but discovered it was a UPS mailbox. All of Bloomfield's attempts to make contact with Mountford were unsuccessful.

After a preliminary hearing on August 30, 2012, the trial court found sufficient evidence to hold Mountford over to answer on one count of grand theft of property with a value exceeding \$950 (§ 487, subd. (a)). Mountford pleaded nolo contendere to the charge on December 12, 2012 and the trial court sentenced Mountford to seven years in prison, suspended the sentence, and placed him on three years of formal probation.

At a probation violation hearing in August of 2015, Mountford admitted to violating the terms of his probation. The court terminated probation and imposed the seven-year prison sentence.

On October 1, 2017, Mountford filed a Petition for Resentencing pursuant to section 1170.18,³ alleging the loss from his grand theft conviction did not exceed \$950. At a hearing on November 27, 2017, the court denied Mountford's petition, finding that his conviction for grand theft of property with a value in excess of \$950 rendered him ineligible for Proposition 47 relief.

Mountford filed a timely appeal, and we appointed counsel to represent him. After examining the record, counsel filed an opening brief on May 30, 2018 raising no issues and asking this court to review the record independently. On May 31, 2018, we advised Mountford he had 30 days within which to personally submit any contentions or issues he wished us to consider. We received supplemental letter briefs on June 13, 2018 and June 15, 2018.

In his June 13, 2018 supplemental letter brief, Mountford challenges the finding that AAERO's loss amounted to \$5,000. In his June 15, 2018 letter brief, Mountford alleges his plea is void because he was not represented at sentencing by his attorney of record and because he was not informed that his sentence could subject him to a life sentence in Nevada.

³ Section 1170.18 was enacted as a part of Proposition 47. Proposition 47 reclassified certain nonserious, nonviolent drug and theft offenses from felonies to misdemeanors, and allows persons convicted of these offenses to petition the court for resentencing as misdemeanants. (§ 1170.18.) In pertinent part, persons convicted of certain petty theft offenses are eligible for Proposition 47 relief; those convicted of grand theft of property valued in excess of \$950, however, are not. (§§ 1170.18, 459.5, 490.2, 487.)

Mountford's claims are without merit. Proposition 47 reduced to a misdemeanor certain forms of grand theft of property valued at less than \$950. (See Prop. 47, § 8, enacting § 490.2.) Mountford pleaded *nolo contendere* to grand theft of "property . . . of a value exceeding nine hundred fifty dollars." (§ 487, subd. (a).) By his plea, Mountford essentially admitted that the property was valued at more than \$950. (See § 1016, subd. (3) ["The legal effect of . . . a plea [of *nolo contendere*], to a crime punishable as a felony, shall be the same as that of a plea of guilty for all purposes"].) He was thus categorically ineligible for resentencing under section 1170.18, and the trial court was not authorized or required to determine whether the claimed \$5,000 loss was accurate before finding Mountford ineligible.

The invalidity of Mountford's plea is not a basis for relief in a petition under section 1170.18. In order to challenge the circumstances of his plea, Mountford was required to file a notice of appeal within 60 days of the judgment. (Cal. Rules of Court, rule 8.308.) In addition, because he pleaded *nolo contendere*, he would have needed to obtain a certificate of probable cause from the trial court. (See § 1237.5; Cal. Rules of Court, rule 8.304(b).) He failed to meet either of these requirements.

We have examined the entire record before us and are satisfied that Mountford's appointed appellate counsel fully complied with her responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109–110; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

DISPOSITION

The order is affirmed.

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JOHNSON, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.