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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.

EDDIS DAVENPORT,

Defendant and Appellant.

B282064

(Los Angeles County
Super. Ct. No. YA063543)

APPEAL from a judgment of the Superior Court of Los Angeles County. James R. Brandlin, Judge. Affirmed.

Susan Morrow Maxwell, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant appeals from the denial of his application under Penal Code section 1170.18, which sought to reduce his felony convictions to misdemeanors.

In November 2005, defendant deposited via an ATM a counterfeit check in the amount of \$24,981.82, purportedly drawn on a business, into a bank account in the name of Daniel DuBois. He appeared at the bank, the next day, and attempted to withdraw \$24,000 from the account in a cashier's check. He presented a fake driver's license in the name of DuBois, and filled out a withdrawal slip in that name. The bank did not process the withdrawal. Instead, bank employees contacted police, who arrested defendant. There is a Daniel DuBois – the driver's license is not his, he never had an account at the bank, and he does not know defendant.

Defendant was charged by information with six counts: (1) identity theft (Pen. Code, § 530.5); (2) attempted grand theft (Pen. Code, §§ 664 & 487); (3) forgery of the check (Pen. Code, § 470, subd. (d)); (4) burglary (Pen. Code, § 459); (5) possession of a forged driver's license (Pen. Code, § 470b); and (6) forgery of the withdrawal slip (Pen. Code, § 470, subd. (a)). A prior prison term was also alleged (Pen. Code, § 667.5).

Defendant pleaded guilty and admitted the prior prison term. The court sentenced defendant to three years in prison, calculated as the upper term on identity theft. Concurrent upper terms were imposed on all other counts; the prior prison term enhancement was stricken.

Defendant served his sentence and was released from prison. Many years later, in March 2017, he filed an application under Penal Code section 1170.18, seeking to have his felony convictions redesignated as misdemeanors. The prosecution

opposed, on the basis that defendant passed a \$24,000 check, and defendant is only entitled to relief if the value did not exceed \$950. The court denied the application for resentencing without a hearing. Defendant filed a timely notice of appeal.

On November 20, 2017, defendant's appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). The brief included a declaration that counsel would write to defendant, explaining the brief counsel was filing, and informing defendant of his right to file a supplemental brief. Counsel also filed a motion to augment the record, attaching additional documents from the trial court record; we grant the motion.

This court sent defendant a letter advising him that a *Wende* brief had been filed and that he had 30 days to submit a brief or letter raising any issues he wished us to consider. Defendant did not file a supplemental brief.

We have examined the entire record and are satisfied that defendant's attorney has fully complied with her responsibilities and that no arguable issues exist. (*Wende, supra*, 25 Cal.3d 436.) Defendant is not entitled to have his felony convictions designated as misdemeanors. (Pen. Code, §§ 530.5 [identity theft statute not impacted by Proposition 47]; 664 & 487 [attempted grand theft not impacted]; 470b [possession of forged driver's license not impacted]; 459 & 459.5 [commercial burglary not reduced to shoplifting when the amount intended to be taken exceeds \$950]; 473, subdivision (b) [potential reduction to misdemeanor for financial document forgery does not apply when the defendant was also convicted of identity theft].)

DISPOSITION

The judgment is affirmed.

RUBIN, ACTING P. J.

WE CONCUR:

GRIMES, J.

HALL, J.*

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