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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

MARVIN LEE ROBLES,

Defendant and Appellant.

B278738

(Los Angeles County  
Super. Ct. Nos. KA107955,  
KA112156 and KA112861)

APPEAL from a judgment of the Superior Court of Los Angeles County, Wade D. Olson, Judge. Affirmed and dismissed.

Adrian K. Panton, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Marvin Lee Robles (defendant) entered pleas of no contest to, and was sentenced to prison for, two felony charges pursuant to a plea agreement. As part of that agreement, he was also sentenced to a concurrent term of 10 years for violating a previously ordered term of probation. He later filed a notice of appeal.

Defendant's appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) requesting we independently review the entire record to determine if there are any arguable issues on appeal. We notified defendant he could independently brief any contentions he wanted to have considered and gave him until July 6, 2017 to do so. He has not submitted anything for our consideration.

## **BACKGROUND**

In January of 2014, defendant and 10 other individuals were named in a 19 count amended indictment filed in the Orange County Superior Court under case number 12ZF0149. On June 17, 2014, he entered a guilty plea to count 10 (attempted extortion by threat in violation of Penal Code section 524<sup>1</sup>) and count 19 (sale/transportation of methamphetamine in violation of Health & Saf. Code, § 11379). In addition, he admitted the criminal street gang enhancement alleged under section 186.22, subdivision (b)(1)(A) and his conviction of a prior serious felony under section 667, subdivisions (b) and (e)(1). The defendant entered these pleas and made his admissions pursuant to a plea agreement that promised he would receive a 10 year suspended

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<sup>1</sup> Further statutory references are to the Penal Code unless otherwise noted.

prison sentence and be placed on probation for a period of five years. These terms, as well as the terms of his probation, were set forth in the documents entitled “Advisement and Waiver of Rights for a Felony Guilty Plea,” “Terms and Conditions of Felony Probation and Mandatory Supervision” and “Admission of Prior Convictions and Prior Prison Terms,” all of which were signed by the defendant. On September 19, 2016, he was sentenced pursuant to the agreement as follows: on count 10, four years (the midterm of two years doubled due to his prior conviction); on count 19, two years (one-third of the three-year midterm doubled because of his prior conviction); and for the gang enhancement, the high term of four years. All terms were to run consecutive to each other for a total of 10 years. Among other conditions of probation, he was ordered to obey all laws.

On January 19, 2016, defendant’s probation case was transferred to the Los Angeles Superior Court and renumbered KA107955. That probation was revoked on June 14, 2016 for failing to obey all laws. In an information numbered KA112156, filed on August 29, 2016, he was charged in count 1 with driving a vehicle without consent in violation of Vehicle Code section 10851, subdivision (a), and in count 2 with receiving stolen property in violation of section 496d, subdivision (a). Filed on the same day was another information, numbered KA112861, charging defendant in count 5 with possession of a firearm by a felon in violation section 29800, subdivision (a)(1) and in count 6 with possession of ammunition in violation of section 30305, subdivision (a)(1). On September 19, 2016, pursuant to a plea agreement, he pled no contest to count 1 in KA112156 and count 5 in KA112861 with the understanding that he would receive a total sentence of four years for both of those counts and that the

four year term would run concurrent with the suspended 10 year sentence in KA107955. Such a sentence was imposed and he was given credit for a total of 1598 days based on the 1240 days he previously served and 179 days of actual custody days and 179 days of good conduct, work credit.

*A. Lack of Certificate of Probable Cause*

A notice of appeal in each of the above cases was filed on October 24, 2016. On December 27, 2016, Presiding Justice Paul Turner issued an order to show cause why the appeals in case numbers KA112156 and KA112861 should not be dismissed for failure to secure a probable cause certificate or properly comply with California Rules of Court, rule 8.304(b)(4)(B). Letter briefs were submitted by both parties regarding this issue. Counsel for defendant takes the position that because the appeal is of the sentence rather than the validity of the plea, a probable cause certificate is not required. However, he acknowledges that pursuant to *People v. Panizzon* (1996) 13 Cal.4th 68, this does not apply when the underlying case was resolved pursuant to a plea agreement and that in such a case, as pointed out by respondent, a certificate of probable cause is required. We agree that a certificate of probable cause is required. Accordingly, we dismiss the appeals in KA112156 and KA112861.

*B. Appellate Counsel's Wende Request*

Pursuant to *Wende, supra*, 25 Cal.3d 436, we examined the record to determine if there are any arguable issues on appeal in case number KA107955. Based on that independent review, we have determined there are no arguable issues on appeal. Defendant's appointed counsel has fully satisfied her responsibilities under *Wende*.

**DISPOSITION**

The appeals from case Nos. KA112156 and KA112861 are dismissed. Judgment in case No. KA107955 is affirmed.

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LANDIN, J.\*

We concur:

KRIEGLER, Acting P.J.

BAKER, J.

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