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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.

RONALD TERRY WOODS,

Defendant and Appellant.

B278158

(Los Angeles County
Super. Ct. No. YA093538)

APPEAL from an order of the Superior Court of Los Angeles County, Steven R. Van Sicklen, Judge. Affirmed.

Stephane Quinn, under appointment by the Court of Appeal,
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In April 2016, Ronald Terry Woods pleaded no contest to one count of forging or counterfeiting a seal in violation of Penal Code section 472.¹ He also admitted a prior strike allegation. The trial court sentenced him to 32 months in prison, consisting of the low term of 16 months for the violation of section 472, doubled as a result of the prior strike. The facts underlying Woods’s conviction are not disclosed in the record on appeal.

In July 2016, Woods wrote a handwritten letter to the superior court labeled “Habeas Corpus.” In the document, Woods stated that he was “requesting a motion for Proposition 47” and wanted to “request resentencing upon Prop[osition] 47 guidelines.” Woods also wrote to request “a reduction of my sentence . . . due to the fact that reviewing the discovery of the case show[s] the possibility of the case being a ‘wobbler.’ ”² The trial court filed the letter on August 4, 2016, and deemed it a petition for a recall of sentence and to request resentencing pursuant to Proposition 47, the Safe Neighborhoods and Schools Act (§ 1170.18).

The district attorney opposed the petition on the ground that Woods’s conviction under section 472 did not qualify for relief under

¹ Unless otherwise specified, subsequent statutory references are to the Penal Code. Section 472 provides: “Every person who, with intent to defraud another, forges, or counterfeits the seal of this State, the seal of any public officer authorized by law, the seal of any Court of record, or the seal of any corporation, or any other public seal authorized or recognized by the laws of this State, or of any other State, Government, or country, or who falsely makes, forges, or counterfeits any impression purporting to be an impression of any such seal, or who has in his possession any such counterfeited seal or impression thereof, knowing it to be counterfeited, and willfully conceals the same, is guilty of forgery.”

² A wobbler is a crime punishable either as a felony or a misdemeanor. (See § 17, subd. (b).)

Proposition 47. On August 10, 2016, the court denied the petition on that ground.

In a document dated September 7, 2016, and filed with the trial court on September 19, 2016, Woods requested the court reduce his “felony to a misdemeanor under the Proposition 47 guideline[s] stating that my conviction of [section] 472 can be petitioned and reduced to a misdemeanor. The conviction of [section] 472 had no value of stolen item[,] nothing over \$950.00.”

On September 19, 2016, the trial court issued a minute order stating that it had “read and considered defendant’s second request for re-sentencing pursuant to Prop[osition] 47. [¶] The ruling of August 10, 2016 remains the same.”

Woods timely appealed from the August 10, 2016, order.

On February 7, 2017, Woods’s counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues on appeal and requesting that we independently review the record to determine if the lower court committed any error. On June 16, we struck the brief on the ground that the record in the case was not complete, and we could not fulfill our duty to conduct an independent review of Woods’s case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 119.) On July 19, 2017, we granted a motion by Woods’s counsel to augment the record on appeal, and on August 1, 2017, Woods’s counsel filed a new *Wende* brief.

On September 1, 2017, we sent notice to Woods of his right to file a supplemental brief within 30 days from that date. He did not file a supplemental brief.

Proposition 47 reduced to misdemeanors certain drug-related and theft-related offenses that had previously been classified as felonies. (*People v. Romanowski* (2017) 2 Cal.5th 903, 907; *People v. Rivera* (2015) 233 Cal.App.4th 1089, 1091.) Proposition 47 further provided that one who was serving a felony prison sentence when Proposition 47 was enacted and who “would have been guilty

of a misdemeanor” if Proposition 47 had been in effect at the time the inmate committed his crime, could petition the trial court to recall his sentence and request to be resentenced in accordance with the newly amended version of the statutes. (§ 1170.18, subd. (a).)

Proposition 47 amended several sections of the Penal Code, including section 473, which defines forgery. (§ 1170.18, subd. (a).) As a result of the amendment, “forgery relating to a check, bond, bank bill, note, cashier’s check, traveler’s check, or money order, where the value of the check, bond, bank bill, note, cashier’s check, traveler’s check, or money order does not exceed nine hundred fifty dollars (\$950),” is punishable as a misdemeanor. (§ 473, subd. (b).) Other forms of forgery, however, remain “wobblers,” punishable either as misdemeanors or felonies. (See §§ 473, subd. (a), 17, subd. (b).)

Section 472 defines the possession of a “counterfeited seal or impression thereof” as a form of forgery. Because possession of a counterfeit seal is not the same as forgery of a check, money order, or other similar instrument, however, the punishment for a violation of section 472 is unaffected by Proposition 47’s amendment to section 473. Thus, the sentence for Woods’s conviction of that crime is not eligible for recall.

Furthermore, to the extent that Woods’s letter to the trial court was a motion to reduce his conviction pursuant to the court’s authority to sentence a wobbler offense as a misdemeanor (see *People v. Tran* (2015) 242 Cal.App.4th 877, 885-886), the trial court did not abuse its discretion by denying the motion. Woods presented virtually no evidence or argument to show that “ ‘felony punishment, and its consequences, are not appropriate for’ ” him. (*Id.* at p. 886.) Nothing in our opinion prevents Woods from filing another petition for reduction of his sentence at a later date, including upon successful completion of post-release community supervision. (See *id.* at pp. 891-892.)

We have reviewed the matter pursuant to *Wende, supra*, 25 Cal.3d 436 and *People v. Kelly, supra*, 40 Cal.4th 106, and are satisfied that Woods's appellate attorney has fully complied with the responsibilities of counsel. We have found no arguable appellate issues and, accordingly, affirm the court's order.

DISPOSITION

The trial court's order is affirmed.

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ROTHSCHILD, P. J.

We concur:

CHANEY, J.

LUI, J.