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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 SOTO FLORES,

Defendant and Appellant.

B245181

(Los Angeles County  
Super. Ct. No. PA038397)

APPEAL from a judgment of the Superior Court of Los Angeles County. Daniel B. Feldstern, Judge. Dismissed.

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Paul Bernstein, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.  
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By information filed on June 19, 2001, David Soto Flores was charged with attempted murder in violation of Penal Code sections 187 and 664 (count 1), assault with a deadly weapon in violation of subdivision (a)(1) of Penal Code section 245 (count 2), and battery with serious bodily injury in violation of subdivision (d) of Penal Code section 243 (count 3).<sup>1</sup> Pursuant to a plea bargain, the court found Flores guilty of attempted murder but dismissed counts 2 and 3, and the court then turned to Flores's plea of not guilty by reason of insanity. The court found that, at the time of the commission of the crime, Flores was not sane within the meaning of section 1026. The court accordingly found Flores not guilty by reason of insanity. The court further found that Flores had not recovered his sanity, and the court therefore ordered Flores committed to the California Department of Mental Health for placement in a state hospital, with his commitment not to exceed 13 years (the maximum period of imprisonment under the charge of conviction), minus custody credits of 197 days (172 days actual time, 25 days good time/work time).

The court ordered that Flores remain confined to a state hospital for inpatient psychiatric treatment until late 2006, when the hospital recommended that Flores be referred to the conditional release program for outpatient placement. The court ordered a report from the conditional release program concerning the hospital's recommendation, and the report approved the recommendation. The court then ordered that Flores "may be released from" the state hospital to the conditional release program for outpatient placement. Flores has remained on outpatient placement since then. Time spent on outpatient placement is not counted toward his maximum term of commitment. (§ 1600.5.)

At a hearing on August 10, 2011, Flores informed the court, through counsel, that he planned to seek restoration of sanity pursuant to section 1026.2. Flores waived jury trial, and the matter was tried to the court. The defense and the prosecution presented eight days of testimony, beginning on February 10, 2012, and ending on August 13,

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<sup>1</sup> All subsequent statutory references are to the Penal Code.

2012. On November 6, 2011, counsel presented closing arguments, and the court ruled that Flores’s “sanity is not restored at this time.” The court ordered that Flores’s outpatient placement continue. Flores timely appealed and asked that counsel be appointed to represent him on appeal.

Appointed appellate counsel filed a brief describing the relevant course of proceedings and informing the court that he found no arguable issues to be pursued on appeal. We informed Flores and invited him to submit, by brief or letter, any grounds of appeal, contentions, or arguments he wished this court to consider. He did not do so.

The procedures of *Anders v. California* (1967) 386 U.S. 738 and *People v. Wende* (1979) 25 Cal.3d 436 do not apply to an appeal from a denial of a petition to restore sanity pursuant to section 1026.2. (*People v. Dobson* (2008) 161 Cal.App.4th 1422, 1438.) We therefore dismiss the appeal.

#### DISPOSITION

The appeal is dismissed.

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ROTHSCHILD, J.

We concur:

MALLANO, P. J.

CHANEY, J.