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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

JOHNNY LEE BRIGGS,

Defendant and Appellant.

2d Crim. No. B286042
(Super. Ct. No. 17F-03739)
(San Luis Obispo County)

Johnny Lee Briggs appeals a judgment of conviction entered after he expressly waived his right to a preliminary hearing and his constitutional rights, and pleaded nolo contendere to felony battery by a prisoner on a non-prisoner. (Pen. Code, § 4501.5.)¹ Pursuant to a plea agreement, the trial

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

Section 4501.5 provides: “Every person confined in a state prison of this state who commits a battery upon the person of any individual who is not himself a person confined therein shall be guilty of a felony and shall be

court sentenced Briggs to a three-year consecutive term, ordered victim restitution, and imposed a \$900 restitution fine, a \$900 parole revocation restitution fine (suspended), a \$40 court security assessment, and a \$30 criminal conviction assessment. (§§ 1202.4, subd. (b), 1202.45, 1465.8, subd. (a); Gov. Code, § 70373.)

We appointed counsel to represent Briggs in this appeal. After counsel's examination of the record, he filed an opening brief raising no issues.

On February 1, 2018, we advised Briggs by mail that he had 30 days within which to personally submit any contentions or issues that he wished to raise on appeal. On March 2, 2018, we received a two-sentence response claiming that his sentence is unauthorized and that he has not received the effective representation of counsel on appeal. Pursuant to *People v. Kelly* (2006) 40 Cal.4th 106, 123-124, we present a factual and procedural summary of the case.

On April 24, 2017, the San Luis Obispo County District Attorney filed a complaint against Briggs, alleging two counts of battery by a prisoner on a non-prisoner, and one count of resisting an executive officer. (§§ 4501.5, 69.) On May 23, 2017, Briggs waived his right to a preliminary hearing and waived his constitutional rights, and pleaded nolo contendere to one count of battery by a prisoner upon a non-prisoner. In accordance with a plea agreement, the trial court sentenced Briggs to a midterm three-year sentence consecutive to the sentence he was then serving. The court found that Briggs voluntarily and intelligently waived his constitutional rights and

imprisoned in the state prison for two, three, or four years, to be served consecutively.”

that the police report of the incident served as a factual basis for the plea. The court also imposed various fines and fees and ordered victim restitution. On the motion of the prosecutor, the court dismissed the remaining two counts.

Briggs then sought a certificate of probable cause to challenge the plea agreement, asserting that his plea was not voluntary or intelligent. The trial court denied the certificate of probable cause.

We have reviewed the entire record and are satisfied that Briggs's attorney has fully complied with his responsibilities and that no arguable issue exists. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.

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GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Dodie A. Harman, Judge

Superior Court County of San Luis Obispo

Richard B. Lennon, under appointment by the Court
of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.