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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

GERARDO MEZA,

Defendant and Appellant.

B290457

(Los Angeles County  
Super. Ct. No. BA279213)

APPEAL from a postjudgment order of the Superior Court of Los Angeles County, Dorothy B. Reyes, Judge. Affirmed.

Heather E. Shallenberger, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Gerardo Meza (Meza) appeals from an order denying his motion to vacate his conviction under Penal Code<sup>1</sup> sections 1473.7 and 1016.5 for possession for sale of a controlled substance pursuant to Health and Safety Code section 11351. Finding no error, we affirm.

### **BACKGROUND<sup>2</sup>**

On February 22, 2005, police executed a search warrant at Gerardo's Jewelry in Los Angeles. Inside, they found cocaine and various items commonly used in narcotics sales, including a loaded firearm. Meza was arrested at the scene with cocaine in his pocket.

On March 10, 2005, Meza entered a plea of no contest to a felony charge of possession for sale of a controlled substance (Health & Saf. Code, § 11351) and placed on formal probation for three years. Three other drug related charges against him were dismissed pursuant to the plea.

On February 7, 2018, Meza filed a motion to withdraw his plea under sections 1473.7 and 1016.5, arguing that he received ineffective assistance of counsel and that he was not adequately advised of immigration consequences by the trial court at the time of his no contest plea.

On April 10, 2018, the trial court held a hearing on the motion, denying it.

On May 31, 2018, Meza timely filed a notice of appeal.

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise specified.

<sup>2</sup> As Meza entered a plea of no contest prior to the preliminary hearing, the facts are taken from the appellant's opening brief.

On September 11, 2018, court-appointed counsel for Meza filed an opening brief and requested this court to conduct an independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Counsel indicated in her attached declaration that she advised Meza by letter that he had 30 days to submit by brief or letter any contentions or argument he wished this court to consider.

On October 11, 2018, Meza filed a supplemental brief arguing that, at the time of his plea, his counsel failed to seek an immigration safe disposition, and that the trial court at the hearing on the motion to withdraw the plea erred by not finding his declaration credible, by improperly relying on a now depublished opinion, and by denying Meza a hearing on the motion.

### **DISCUSSION**

First, as Meza’s “ ‘failure to defend’ ” argument, the court heard the testimony of the attorney who represented Meza at the time of his plea. The attorney testified that, according to her notes, custom, and memory, she attempted to seek an immigration safe disposition for Meza, informed him of the immigration consequences of the plea, and advised him against entering a plea of no contest.

Next, the trial court was well within its factfinding authority to find Meza’s declaration lacked credibility due to the fact that his claim of not being advised of immigration consequences by his attorney directly contradicted the attorney’s sworn testimony at the hearing, which the court impliedly believed.

Furthermore, Meza’s argument that the court erred by relying on *People v. Landaverde* (2018) 20 Cal.App.5th 287 for the

proposition that a failure of counsel to advise a defendant of immigration consequences at a time when the law did not require it does not constitute ineffective assistance is of no moment. Meza criticizes the trial court for relying on *Landaverde* because it was depublished by order of our Supreme Court on May 16, 2018—five weeks after the hearing at issue. In any event, the trial court credited the testimony of Meza’s attorney which established that Meza was in fact advised of the immigration consequences of his plea but that he insisted on pleading no contest to obtain immediate release from custody. Even if Meza were not so advised by his attorney, he did not suffer prejudice. As the trial court correctly pointed out, the transcript of the plea clearly established that he was admonished, “If you’re not a citizen of the United States, your plea in your case will cause you to be deported, denied reentry, denied naturalization, or denied amnesty.” When asked if he understood the advisement, Meza replied, “Yes.”

Finally, Meza’s contention that he was denied a hearing is without merit. In support of his position, Meza points to the trial court’s sustaining of relevance objections to a line of questioning regarding whether his previous attorney investigated Meza’s citizenship status or engaged in plea negotiations for specific alternative charges. The questions at issue were irrelevant as the trial court correctly pointed out because the attorney testified that she advised *all* of her clients of immigration consequences and similarly attempted to obtain immigration safe dispositions in *all* of her cases.

Therefore, after our independent review of the record, we are satisfied appellant’s attorney has fully complied with the responsibilities of counsel and no arguable issue exists. (*People v.*

*Kelly* (2006) 40 Cal.4th 106, 126; *People v. Wende, supra*,  
25 Cal.3d at p. 441.)

**DISPOSITION**

The postjudgment order is affirmed.  
NOT TO BE PUBLISHED.

DHANIDINA, J.

We concur:

EDMON, P. J.

EGERTON, J.