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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE, Plaintiff and Respondent, v. CHRISTIAN B. JONES, Defendant and Appellant.	B283855 (Los Angeles County Super. Ct. No. BA449332)

APPEAL from a Judgment of the Superior Court of Los Angeles County. William N. Sterling, Judge. Affirmed.

Marilee Marshall & Associates and Marilee Marshall, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Pursuant to a plea agreement, appellant Christian B. Jones pled no contest to one count of assault with a deadly weapon, a knife (Pen. Code, § 245, subd. (a)(1)),[1] and was sentenced in accordance with the agreement to 36 months of probation. Appellant's counsel on appeal filed a *Wende* brief (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)) requesting that we conduct an independent review of the record. Appellant filed a supplemental brief, principally contending he wanted to go to trial and that his counsel misled him regarding the consequences of his plea deal. We have reviewed the record and conclude that no arguable issues exist. Accordingly, we affirm.

FACTUAL BACKGROUND

Appellant and his friend and codefendant Debra Ooten lived in one of the three apartment units at 654 East 76th Street in Los Angeles. Travis Washington managed the apartments, and is the father of the victim, Demaruea North (North).

On August 16, 2016, shortly after midnight, the police were called to the apartment building. There were six or seven police there when North arrived at the building to find appellant and Ooten waiting at the gate. The police told North to let appellant and Ooten in. North and appellant began to argue, and North told appellant to "get out of [his] face." North pushed appellant. The police took North outside of the gate and told appellant and Ooten to go inside their apartment. Once they entered the apartment, the police let North go.

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[1] All statutory references herein are to the Penal Code unless otherwise noted.

After the police left, appellant came out of his apartment holding a 12-inch long silver butcher knife and chased North around the building twice. Appellant swung the knife at North, and Ooten hit North with a heavy object.

North fell to the ground, and appellant jumped on him and began to gouge North's eyes. Someone pulled appellant off of North. North could not see anything after the attack, and still suffers from vision problems. He has blurriness in his right eye and double vision.

PROCEDURAL HISTORY

The information filed October 4, 2016, charged defendant with two counts of assault with a deadly weapon (§ 245, subd. (a)(1); 245, subd. (a)(4)) (counts 1 and 3), and further alleged that the offense was a serious felony within the meaning of section 1192.7, subdivision (c). Defendant pleaded not guilty to both counts.

On May 3, 2017, appellant appeared in court and pursuant to a plea agreement, changed his plea on count 1 to no contest. Appellant's counsel put on the record the two plea offers made to appellant: (1) plea to count 3, violation of section 245, subdivision (a)(4), which was a non-strike offense, with one year in County Jail, or (2) plea to count 1, violation of section 245, subdivision (a)(1), which was a strike offense, for time served. Appellant opted to plea to the strike offense.

The court advised appellant that by pleading to a strike offense, if defendant was convicted of another felony, his sentence would be doubled, and a third strike could result in a 25 years-to-life sentence.

Defendant stated that he understood, and that he understood the maximum sentence for count 1 was four years in state prison.

After a waiver of his Constitutional rights, appellant stated that he was pleading freely and voluntarily because he believed the plea was in his best interests. Appellant pleaded no contest to count 1, and the trial court found appellant's waivers and plea were knowingly, intelligently, and voluntarily made.

The trial court placed appellant on 36 months of formal probation, and ordered him to serve 280 days in County Jail with credit for 280 days, consisting of 140 actual days plus 140 days goodtime/worktime. The trial court ordered appellant to pay a restitution fine of $300 (§ 1202.4, subd. (b)), a probation revocation fine of $300 (§ 1202.44), a criminal conviction assessment of $30 (Gov. Code, § 70373), and a court facilities assessment of $40 (§ 1465.8, subd. (a)(1)). The court ordered defendant to provide a DNA sample (§ 296) and to pay victim restitution (§ 1202.4, subd. (f)), the amount to be determined at a later date.

Appellant's notice of appeal filed June15, 2017 stated that his appeal was "based on the sentence or other matters occurring after the plea that do not affect the validity of the plea." (Cal. Rules of Court, rule 8.304(b).) Appellant did not obtain a certificate of probable cause.

DISCUSSION

After reviewing the record, appellant's court-appointed counsel filed an opening brief requesting that this court independently review the record pursuant to *Wende*. On October 17, 2017, we informed

appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider.

On November 16, 2017, appellant filed a supplemental brief in which he contends that he wanted to go to trial, but that counsel pressured him to take the plea deal. Without counsel's pressure to take the plea deal and counsel's misrepresentation that he could get his conviction expunged, Appellant contends he would not have taken the deal in which he pleaded to count 1 and received a felony strike.

A certificate of probable cause is required for an appeal challenging the validity of a plea. (§ 1237.5; *People v. Brown* (2010) 181 Cal.App.4th 356, 359.) "Thus, for example, a certificate must be obtained when a defendant claims that a plea was induced by misrepresentations of a fundamental nature [citation]." (*People v. Panizzon* (1996) 13 Cal.4th 68, 76.) Because appellant failed to obtain a certificate of probable cause, he is precluded from challenging the validity of his plea.

"Notwithstanding the broad language of section 1237.5, it is settled that two types of issues may be raised in a guilty or nolo contendere plea appeal without issuance of a certificate: (1) search and seizure issues for which an appeal is provided under section 1538.5, subdivision (m); and (2) issues regarding proceedings held subsequent to the plea for the purpose of determining the degree of the crime and the penalty to be imposed. [Citations.]" (*Panizzon, supra*, 13 Cal.4th at pp. 74–75.) Appellant has not raised either type of issue.

We have independently reviewed the record and conclude that there are no arguable issues on appeal. (See *Wende, supra,* 25 Cal.3d at

pp. 441–442; see also *Smith v. Robbins* (2000) 528 U.S. 259 [upholding the *Wende* procedure].)

DISPOSITION

The judgment is affirmed.

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

COLLINS, J.