

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.
---

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

THEOPHILUS GILLIAM  
HUBBARD,

Defendant and Appellant.

B296700

(Los Angeles County  
Super. Ct. No. PA067328)

APPEAL from an order of the Superior Court of Los Angeles County, Daniel B. Feldstern, Judge. Affirmed.

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

No appearance by Plaintiff and Respondent.

In 2011, Theophilus Gilliam Hubbard (defendant) pled no contest to second degree robbery (Pen. Code,<sup>1</sup> § 211) and admitted he had sustained a prior serious or violent felony conviction.<sup>2</sup> The trial court sentenced defendant to a total of 15 years in state prison—five years for the robbery, which was doubled on account of the prior “strike” conviction (§§ 667(b)-(i), 1170.12), plus a five-year enhancement, which was then mandatory, for having sustained a prior serious felony conviction. (Former §§ 667(a)(1).)

Years after his conviction, defendant filed a petition for resentencing under Senate Bill 1393. That legislation, which took effect on January 1, 2019, amended sections 667(a) and 1385(b) to give trial courts discretion to strike five-year prior serious felony enhancements. (Stats. 2018, ch. 1013, §§ 1-2; *People v. Garcia* (2018) 28 Cal.App.5th 961, 971.) Senate Bill 1393 applies to all cases that were not yet final when it took effect. (*Id.* at p. 973.) The trial court denied defendant’s request for resentencing under Senate Bill 1393 because his conviction “became final long before the effective date” of the amendments to sections 667 and 1385.

Defendant appealed the trial court’s order and this court appointed counsel to represent him on appeal. After examining the record, defendant’s attorney filed an opening brief raising no issues. On August 7, 2019, this court advised defendant he had

---

<sup>1</sup> Undesignated statutory references that follow are to the Penal Code.

<sup>2</sup> The information alleged defendant was convicted of two violent felonies in 1996: robbery (§ 211) and oral copulation (former § 288a(d)). The record does not indicate which of these convictions defendant admitted.

30 days to personally submit any contentions or issues he wished us to consider. We received no response.

We have examined the appellate record and are satisfied defendant's attorney has complied with the responsibilities of counsel and no arguable issue exists. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-82; *People v. Kelly* (2006) 40 Cal.4th 106, 122-24; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

#### DISPOSITION

The trial court's order is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BAKER, J.

We concur:

RUBIN, P. J.

KIM, J.