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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

MARLON SIBRIAN

Defendant and Appellant.

B247398

(Los Angeles County
Super. Ct. No. LA071787)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Joseph A. Brandolino, Judge. Affirmed.

Richard L. Fitzer, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

On the afternoon of August 20, 2012, Steve Lavario saw Marlon Sibrian¹ in the driveway of the home of Lavario's father. Sibrian had thrust his head and upper body through the open window of a car belonging to Lavario's father. Lavario confronted Sibrian, who claimed he was not doing anything wrong and walked away carrying a baseball bat. Police arrived, spoke with Lavario and arrested Sibrian. Officers searched Sibrian and found a student identification card and a bank access card belonging to the owner of another car that had been burglarized in the same area.

Sibrian filed a motion to suppress evidence (Pen. Code, § 1538.5), which was heard in conjunction with the preliminary hearing. At the conclusion of the hearing, the court denied the motion and held Sibrian to answer.

Sibrian was thereafter charged in an information with one count of petty theft with three prior theft-related convictions (Pen. Code, §§ 484, subd. (a), 666), theft of access card account information (Pen. Code, § 484e, subd. (d)), willfully tampering with or damaging a vehicle (Veh. Code, § 10852) and attempted petty theft (Pen. Code, §§ 484, subd. (a), 664). Represented by appointed counsel, Sibrian pleaded not guilty.

Defense counsel renewed the suppression motion in the trial court (Pen. Code, § 1538.5, subd. (i)). After reviewing the preliminary hearing transcript and hearing counsels' argument, the court denied the motion.

Following the denial of his renewed suppression motion, Sibrian entered an open plea to the court of no contest to all four counts. The court suspended imposition of sentence and placed Sibrian on three years of formal probation, on condition he serve 364 days in county jail, with credit for time served. The court ordered Sibrian to pay on each count a \$40 court security fee and a \$30 criminal conviction assessment. The court

¹ Sibrian was also referred to in the record as Jairo Sanchez Arteaga, although the minute order of his plea and sentencing hearing gives his name as Marlan Sibrian.

imposed a \$240 restitution fine and imposed and suspended a probation revocation fine pursuant to Penal Code, section 1202.44.²

Sibrian filed a timely notice of appeal based upon the denial of his motion to suppress evidence. We appointed counsel to represent Sibrian on appeal. After an examination of the record, counsel filed an opening brief in which no issues were raised. On June 3, 2013, we advised Sibrian he had 30 days within which to personally submit any contentions or issues he wished us to consider. No response has been received to date.

We have examined the entire record and are satisfied Sibrian's attorney has fully complied with the responsibilities of counsel and no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

DISPOSITION

The judgment is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

WOODS, J.

² After Sibrian admitted he had violated probation in three misdemeanor cases, the trial court revoked and reinstated probation in those cases, on condition Sibrian serve concurrent terms of 180 days in county jail, consecutive to his sentence in Los Angeles Superior Court case Number LA071787, with credit for time served. Probation in those cases was to terminate upon completion of his 180-day sentence.