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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

KEITH BROWN,

Defendant and Appellant.

B238530

(Los Angeles County Super. Ct.  
No. A037401)

APPEAL from a judgment of the Superior Court of Los Angeles County, James D. Otto, Judge. Affirmed.

California Appellate Project, Jonathan B. Steiner, Executive Director, and Richard B. Lennon, Staff Attorney, under appointments by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Defendant and appellant Keith Brown appeals from the order denying his petition for writ of error coram nobis following his 1987 conviction by plea of second degree murder. This court appointed counsel to represent defendant on appeal from the order. On March 21, 2012, appointed counsel filed a brief raising no issues, asking this court to independently review the record for arguable appellate contentions under *People v. Wende* (1979) 25 Cal.3d 436.

Defendant was advised of his right to file a supplemental brief. On April 9, 2012, defendant filed a supplemental brief arguing the trial court lacked personal jurisdiction over him in 1987, apparently based on the contention he was denied due process of law prior to being found unfit for treatment in juvenile court as required by Welfare and Institutions Code section 707, subdivision (b). He also argues his plea was an invalid contract between the state and an infant acting without a guardian ad litem.

Defendant's contentions are barred by the unexplained delay between his guilty plea in 1987 and the filing of his petition in the court below in 2011. "It is well settled that a showing of diligence is prerequisite to the availability of relief by motion for *coram nobis*" (*People v. Shorts* (1948) 32 Cal.2d 502, 512; see *People v. Carty* (2003) 110 Cal.App.4th 1518, 1528), and the burden falls to defendant 'to explain and justify the delay' (*People v. Castaneda* (1995) 37 Cal.App.4th 1612, 1618)." (*People v. Kim* (2009) 45 Cal.4th 1078, 1096 (*Kim*).)

Coram nobis relief is also unavailable because defendant voluntarily enter his plea, even if he pled out of ignorance or mistake as to the legal effect of the facts. "It has often been held that the motion or writ is not available where a defendant voluntarily and with knowledge of the facts pleaded guilty or admitted alleged prior convictions because of ignorance or mistake as to the legal effect of those facts.' (*People v. Banks* [1959] 53 Cal.2d [370,] 378)." (*Kim, supra*, 45 Cal.4th at p. 1093.) "It is not a writ whereby convicts may attack or relitigate just any judgment on a criminal charge merely because the unfortunate person may become displeased with his confinement or with any other

result of the judgment under attack.’ (*People v. Hayman* (1956) 145 Cal.App.2d 620, 623.)” (*Kim, supra*, at p. 1092.)

In addition, defendant is procedurally barred from seeking relief due to his failure to pursue a petition for writ of habeas corpus in a timely fashion. Coram nobis is not a substitute for a failure to seek available habeas corpus relief. (*Kim, supra*, 45 Cal.4th at pp. 1093-1094.)

Finally, defendant’s conclusory and unsupported allegations fail to allege facts sufficient to warrant relief. The judgment is affirmed. (*Smith v. Robbins* (2000) 528 U.S. 259.)

KRIEGLER, J.

We concur:

TURNER, P. J.

ARMSTRONG, J.