

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**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(a). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115(a).

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT RICHARD APPLING,

Defendant and Appellant.

B279958

Los Angeles County  
Super. Ct. No. BA388494

APPEAL from a judgment of the Superior Court of  
Los Angeles County, Mildred Escobedo, Judge. Dismissed.

Bird & Bird and Karen Hunter Bird, under appointment by  
the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

---

## INTRODUCTION

Robert Richard Appling purports to appeal, following his admission of a probation violation and imposition of a 16-month sentence on November 17, 2016. Because there is nothing in the record to show that Appling timely sought, and was granted, a certificate of probable cause, he is barred by statute from appealing. (Pen. Code, § 1237.5.)<sup>1</sup> Accordingly, we dismiss his appeal.

## BACKGROUND

By information filed October 4, 2011, Appling was charged with one count of grand theft of an automobile (§ 487, subd. (d)(1), count 1) and one count of the unlawful taking of a vehicle (Veh. Code, § 10851, subd. (a), count 2). The information alleged Appling had been convicted of a felony in 2008. (§ 484e.)

On December 6, 2011, while being represented by a deputy public defender, Appling entered a plea of nolo contendere to the unlawful taking of a vehicle. (Veh. Code, § 10851, subd. (a).)<sup>2</sup> The court placed Appling on probation for three years with various conditions, including the requirement that he obey all laws and court orders. In addition to imposing various court fees, the court required Appling to pay \$1,718.00 in direct restitution to the victim (§ 1202.4, subd. (f)) and pay a restitution fine (§ 1202.4, subd. (b)).

The record shows that, after Appling was released on probation, he was arrested and served a prison term in Florida.

---

<sup>1</sup> Unless otherwise noted, statutory references are to the Penal Code.

<sup>2</sup> The court dismissed the other count.

In December 2012, probation was revoked and a bench warrant issued. On October 24, 2016, Appling appeared before the court after having been arrested on the bench warrant. On November 17, 2016, Appling waived his right to a probation violation hearing and indicated he wanted to admit his probation violation. Represented by a deputy public defender, Appling admitted that he had violated the conditions of his probation by committing another offense and by failing to pay the total due in restitution. The court revoked probation and, for Appling's conviction under section 10851 of the Vehicle Code, imposed the low term of 16 months, with 43 days of actual credit. The court further ordered Appling to pay a restitution fine of \$300, a parole revocation fine of \$300, a criminal facility fee of \$30, a court security fee of \$40, and a crime prevention fee of \$10.

### **DISCUSSION**

Appling timely filed a notice of appeal. After review of the record, appellant's court-appointed counsel filed an opening brief that raised no issues, and requested this court to conduct an independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. We advised appellant that he had 30 days to submit by brief or letter any contentions or argument he wished this court to consider. We have received no response.

There is nothing in the record, nor in the brief filed by appointed appellate counsel, to show that Appling sought and was granted a certificate of probable cause. Without the issuance of a certificate of probable cause, Appling may not proceed on appeal after having admitted that he violated the terms of his probation. (§ 1237.5.)

Section 1237.5 provides: "No appeal shall be taken by the defendant from . . . a revocation of probation following an

admission of violation, except where both of the following are met: [¶] (a) The defendant has filed with the trial court a written statement, executed under oath or penalty of perjury showing reasonable constitutional, jurisdictional, or other grounds going to the legality of the proceedings. [¶] (b) The trial court has executed and filed a certificate of probable cause for such appeal with the clerk of the court.”

We have examined the record and are satisfied no arguable noncertificate issues exist. (See *People v. Kelly* (2006) 40 Cal.4th 106, 126; *People v. Wende, supra*, 25 Cal.3d at pp. 441-442.) Because there is nothing in the record to show that Applying timely sought, and was granted, a certificate of probable cause, we dismiss the appeal.

**DISPOSITION**

The appeal is dismissed.

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

EDMON, P. J.

We concur:

LAVIN, J.

STONE, J.\*

---

\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.