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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.

WILLIAM WASHINGTON,

Defendant and Appellant.

B280049

(Los Angeles County
Super. Ct. No. LA070312)

APPEAL from an order of the Superior Court of
Los Angeles County, Gregory A. Dohi, Judge. Affirmed.

James Koester, under appointment by the Court of Appeal,
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

William Washington appeals from a postjudgment order denying his petition for resentencing under Proposition 57, a voter-enacted initiative on the November 2016 ballot officially titled “The Public Safety and Rehabilitation Act of 2016.” Following a review of the record, appointed counsel for Washington filed a brief identifying no meritorious issues. After independently reviewing the record and analyzing the contentions in Washington’s supplemental brief, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On August 30, 2013 a jury convicted Washington of multiple counts of second degree burglary and theft of identifying information and one count each of grand theft and possession of a controlled substance. The jury also found true an allegation Washington had served a prior prison term. The trial court sentenced Washington to an aggregate state prison term of 24 years 8 months. We affirmed the judgment in part and reversed it in part, and remanded the case to the trial court with directions, among other things, to exercise its discretion to impose or strike a one-year prior prison term enhancement under Penal Code section 667.5. (*People v. Washington* (Aug. 23, 2016, B257234) [nonpub. opn.].)

While the appeal was pending, Washington filed a petition for recall of his sentence under Proposition 47. The trial court granted the petition to reclassify seven of the felony burglary convictions as misdemeanors and resentenced Washington. We dismissed Washington’s appeal from that order, concluding the

trial court lacked jurisdiction to rule on Washington's Proposition 47 petition while his appeal from the judgment was pending. (*People v. Washington* (Dec. 12, 2016, B267300) [nonpub. opn.].)

Following the dismissal of that appeal, Washington successfully petitioned the trial court for recall of his sentence under Proposition 47. The trial court, now having jurisdiction, reduced the seven felony burglary counts to misdemeanors.

Washington then filed another petition, this time under the recently enacted Proposition 57, for resentencing on the eight felony convictions for theft of identifying information and the prior prison term enhancement. The court dismissed Washington's petition, noting Proposition 57 does not authorize courts to resentence defendants. This appeal, Washington's third, is from that order.

We appointed counsel to represent Washington in this appeal. After reviewing the record, counsel filed an opening brief raising no issues. We subsequently advised Washington he had 30 days to submit a brief or letter raising any grounds of appeal, contentions, or arguments he wanted us to consider.

We received a handwritten "supplemental brief" on a Judicial Council form for a petition for writ of habeas corpus. In this document, Washington argues that, because he was a nonviolent offender, the trial court improperly sentenced him to consecutive terms on his convictions for theft of identifying information. He also asks us to strike the prior prison term enhancement under Proposition 57.

DISCUSSION

As relevant to this appeal, Proposition 57 amended the California Constitution in two respects: First, the Constitution now requires that “[a]ny person convicted of a nonviolent felony offense and sentenced to state prison . . . be eligible for parole consideration after completing the full term for his or her primary offense.” (Cal. Const., art I, § 32, subd. (a)(1); see *People v. Superior Court (Walker)* (2017) 12 Cal.App.5th 687, 694, fn. 8 [among other amendments, Proposition 57 “amended Article 1, section 32 of the California Constitution governing the consideration of parole and the earning of behavior credits in state prison”].) For these purposes, a “full term for the primary offense means the longest term of imprisonment imposed . . . for any offense, excluding the imposition of an enhancement, consecutive sentence, or alternative sentence.” (Cal. Const., art I, § 32, subd. (a)(1)(A).) Second, the Constitution now requires the “Department of Corrections and Rehabilitation . . . to award credits earned for good behavior and approved rehabilitative or educational achievements.” (*Id.*, subd. (a)(2).)

Although Proposition 57 applies to a person convicted of a nonviolent felony offense, it creates a mechanism for parole consideration, not a vehicle for resentencing. Therefore, the trial court properly dismissed Washington’s petition asking the court to resentence him to concurrent terms on his felony offenses and to strike the prior prison term enhancement.

We have examined the record and are satisfied appellate counsel for Washington has complied with his responsibilities and there are no arguable issues. (See *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, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.)

DISPOSITION

The order is affirmed.

SEGAL, J.

We concur:

ZELON, Acting P. J.

MENETREZ, J.*

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