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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL LEE JONES,

Defendant and Appellant.

2d Crim. No. B299000
(Super. Ct. No. 2014035450)
(Ventura County)

Daniel Lee Jones appeals from the order revoking and terminating probation and sentencing him to three years in state prison. (Pen. Code,¹ §§ 1203.3, subd. (a), 1237.5; Cal. Rules of Court, rule 8.304(b).)

Jones broke into a truck and took an iPod. When confronted by a witness, Jones produced a knife and nunchakus, held the knife by the blade, and threatened to throw the knife and kill the witness.

¹ All further statutory references are to the Penal Code.

Jones pled guilty to felony criminal threats with use of a knife (§§ 422, 12022, subd. (b)(1)) and misdemeanor brandishing of a knife (§ 417, subd. (a)(1)), and admitted that he served two prior prison terms (§ 667.5, subd. (b)). He was placed on 36 months of formal probation.

Two years later, Jones admitted violations of probation including possession of methamphetamine and failing to report to the probation officer, and accepted the court's offer of a three-year prison sentence. The court revoked and terminated probation and sentenced Jones to two years in state prison for the criminal threats and an additional year for use of the knife. He was sentenced to 30 days in jail for the misdemeanor brandishing, with the sentence on this count deemed served. The court struck the sentencing enhancement for the prior prison terms.

We appointed counsel to represent Jones in this appeal. After examining the record, counsel filed an opening brief that raises no arguable issues. We advised Jones that he had 30 days to personally submit any contentions or issues he wished us to consider. Jones filed a supplemental brief in which he raises a number of issues.

Jones contends that witnesses he requested for his preliminary hearing did not appear. The claim is not reviewable on appeal because there is no record of "irregularities in the preliminary examination procedures" that were "jurisdictional in the fundamental sense" (*People v. Pompa-Ortiz* (1980) 27 Cal.3d 519, 529).

Jones challenges the truth of the charges against him, stating that he found rather than stole the iPod, that he did not threaten to kill the victim, and that "evidence was tampered

with.” Because Jones did not obtain a certificate of probable cause, we do not have jurisdiction to review the validity of the guilty plea. (§ 1237.5; *People v. Johnson* (2009) 47 Cal.4th 668, 677-679.) Entry of the guilty plea also forecloses appeal of the denial of Jones’s preplea *Marsden*² motions. (*People v. Lovings* (2004) 118 Cal.App.4th 1305, 1312.)

Jones’s claims of ineffective assistance of counsel must be rejected on appeal because they are not supported by facts in the record. (*Strickland v. Washington* (1984) 466 U.S. 668, 694; *People v. Mendoza Tello* (1997) 15 Cal.4th 264, 266-267.) Jones has not shown that but for the alleged errors it is reasonably probable that he would have obtained a more favorable result. (*People v. Fairbank* (1997) 16 Cal.4th 1223, 1241-1242.) He has failed to show that there was a miscarriage of justice or that he was denied a fair trial. (Cal. Const., art. VI, § 13; *United States v. Bagley* (1985) 473 U.S. 667, 678.)

Jones contends that he was mentally incompetent. The record does not contain evidence that would have required proceedings to determine his mental competence. (§ 1368; *People v. Mickel* (2016) 2 Cal.5th 181, 195.) The trial court found that in pleading guilty, Jones understood the nature of the charges and the consequences of his pleas and admissions, and that he knowingly, intelligently and understandingly waived his rights.

Jones contends that he filed a demand for trial or sentencing from the Orange County jail pursuant to section 1381. He contends that he tried to get into several programs, and that if he had known he had an active hold from Ventura County he would have gone to a program. He contends that he wanted to be heard during his probation hearing and wanted to read a letter

² *People v. Marsden* (1970) 2 Cal.3d 118.

he wrote to the judge, but was never given a chance to do so. We reject these contentions because they are not supported by facts in the appellate record. (*People v. Kelly* (2006) 40 Cal.4th 106, 126.)

Jones contends that he is “missing many days credit due.” We decline to address this issue because the record does not contain sufficient facts to resolve it, and because it was not first presented to the trial court. (§ 1237.1; *People v. Mendez* (1999) 19 Cal.4th 1084, 1100-1101; *People v. Salazar* (1994) 29 Cal.App.4th 1550, 1557.)

We have reviewed the entire record and are satisfied that Jones’s attorney has fully complied with his responsibilities and that no arguable issue exists. (*People v. Wende* (1979) 25 Cal.3d 436, 441; *People v. Kelly, supra*, 40 Cal.4th at p. 126.)

The judgment is affirmed.

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TANGEMAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

Innumerable, F. Dino, Judge

Superior Court County of Ventura

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

No appearance for Plaintiff and Respondent.