

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

LARRY JORDAN,

Defendant and Appellant.

B276793

(Los Angeles County  
Super. Ct. No. LA022530)

APPEAL from a judgment of the Superior Court of Los Angeles County, Michael Kellogg, Judge. Affirmed.

Stephen Borgo, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Larry Jordan appeals from the denial of his petition to recall his sentence under Proposition 47 (Pen. Code, § 1170.18),<sup>1</sup> which reduced certain theft-related and drug-related felonies to misdemeanors. Appellant’s counsel on appeal filed a *Wende* brief (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)) requesting that we conduct an independent review of the record. We have done so and conclude that no arguable issues exist. Accordingly, we affirm.

On March 25, 1996, appellant was convicted of assault with a deadly weapon. (§ 245, subd. (a)(1).) On October 22, 2015, appellant filed a petition under section 1170.18, a provision of Proposition 47 enacted in November 2014, seeking to reduce his assault conviction to a misdemeanor.

Under section 1170.18, subdivision (f): “A person who has completed his or her sentence for a conviction, whether by trial or plea, of a felony or felonies who would have been guilty of a misdemeanor under this act had this act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the felony conviction or convictions designated as misdemeanors.” However, Proposition 47 applies only to “certain drug- and theft-related offenses.” (*People v. Rivera* (2015) 233 Cal.App.4th 1085, 1091.) It does not reduce assault with a deadly weapon to a misdemeanor. The trial court therefore denied the petition, stating that the crime was not covered by Proposition 47. Appellant filed a timely notice of appeal.

---

<sup>1</sup> Further unspecified statutory references are to the Penal Code.

After reviewing the record, appellant's court-appointed counsel filed an opening brief requesting that this court independently review the record pursuant to *Wende*. On October 17, 2016, we informed appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. On November 4, 2016, appellant filed a supplemental brief in which he contends that he was denied his right to effective assistance of counsel on appeal. He contends that the trial court failed to fulfill its duty to consider the factors set forth under section 1170.18, subdivision (f) to determine a defendant's eligibility under Proposition 47, and that his guilty plea to the assault charge was not knowing, intelligent, and voluntary. However, the trial court correctly denied the petition because a conviction for assault with a deadly weapon under section 245 is not among the offenses eligible for Proposition 47 relief.

We have independently reviewed the record and conclude that there are no arguable issues on appeal. (See *Wende, supra*, 25 Cal.3d at pp. 441–442; see also *Smith v. Robbins* (2000) 528 U.S. 259, 278–279 [upholding the *Wende* procedure].)

## **DISPOSITION**

The judgment is affirmed.

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

WILLHITE, Acting P. J.

We concur:

MANELLA, J.

COLLINS, J.