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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.

RICHARD JOSEPH SAMS,

Defendant and Appellant.

2d Crim. No. B290714
(Super. Ct. Nos. 16F-02923)
(San Luis Obispo)

Richard Joseph Sams appeals a May 23, 2018 order denying his petition to be resentenced. (Pen. Code, § 1170, subd. (d).)¹ In October 2016, appellant pled no contest in four cases (case nos. 16F-00589, 16F-00752, 16F-02923, 16F-04461) to multiple counts of forgery (§ 470, subd. (d)) and identity theft (§ 530.5, subd. (a)), and admitted an out-on-bail enhancement (§ 12022.1) and two prison prior enhancements (§ 667.5, subd. (b)). Pursuant to the negotiated plea, appellant was to receive an eight-year-four-month county jail/prison sentence, consisting of

¹ All statutory references are to the Penal Code unless otherwise stated.

five years four months custody time and three years mandatory supervision.

Appellant was released on a *Cruz* waiver (*People v. Cruz* (1988) 44 Cal.3d 1247) to attend his father's funeral. Appellant failed to appear for sentencing and drove a U-Haul to Nevada where he was arrested, convicted, and served time on a new offense.

When appellant returned to California for sentencing, he pled no contest to the charge of taking or unlawful driving a vehicle (the U-Haul / Veh. Code, § 10851, subd. (a)) in case no. 17F-01833. On November 8, 2017, appellant was sentenced in all five cases to eleven years eight months county jail/prison, to be served as a split sentence with seven years custody and four years eight months mandatory supervision. The trial court ordered appellant to pay various fine and fees, and restitution.

On April 2, 2018, appellant filed a petition to recall his sentence and be resentenced (§ 1170, subd. (d)) on the ground that he was a model prisoner in Nevada and had been accepted to participate in an alcohol in-patient treatment program in San Diego. The petition requested that appellant be resentenced to seven years, consisting of five years four months in custody and one year eight months mandatory supervision. The trial court granted the petition to recall the sentence in order to preserve jurisdiction but denied appellant's request to be resentenced. Appellant filed a notice of appeal in case no. 16F-02923.

We appointed counsel to represent appellant in this appeal. After examining the record, counsel filed an opening brief raising no issues. On October 30, 2018, we advised

appellant that he had 30 days to personally submit any contentions he wished us to consider. We received no response.

We have reviewed the entire record and are satisfied that appellant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 126; *People v. Wende* (1979) 25 Cal.3d 436, 443.)

The judgment is affirmed.

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YEGAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

Jacquelyn H. Duffy, Judge

Superior Court County of San Luis Obispo

Jonathan B. Steiner, Executive Director, Richard B.
Lennon, Staff Attorney for Defendant and Appellant.

No appearance for Respondent.