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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.

EDGAR ARELLANO,

Defendant and Appellant.

B281513

(Los Angeles County  
Super. Ct. No. KA112598)

APPEAL from a judgment of the Superior Court of  
Los Angeles County, Jack P. Hunt, Judge. Affirmed.

Joy A. Maulitz, under appointment by the Court of Appeal,  
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Edgar Arellano appeals from the judgment entered following his no contest plea to first degree burglary and admission of a prior strike conviction and several serious felony enhancements. We affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

In April 2016 Arellano was arrested after he entered the dormitory room of a female college student while she was sleeping. While in the room, Arellano removed some of the student's undergarments from a laundry hamper. Arellano was not a student at the college and did not have permission to be in the dormitory.

In November 2016 Arellano was charged in a three-count information with first degree burglary with a person present (Pen. Code, §§ 459, 667.5, subd. (c)(21)),<sup>1</sup> disorderly conduct (peeking in the door or window of an inhabited building) (§ 647, subd. (i)) and disorderly conduct (loitering or prowling on private property) (§ 647, subd. (h)). It was specially alleged Arellano had been convicted of first degree burglary in 1999 and in 2002, two serious or violent felony convictions under the three strikes law (§§ 667, subds. (b)-(i), 1170.12), and two serious felony convictions within the meaning of section 667, subdivision (a)(1). It was also alleged he had previously served two separate prison terms for felonies (§ 667.5, subd. (b)).

In January 2017 Arellano entered a negotiated plea of no contest to first degree burglary with a person present and admitted the 1999 first degree burglary conviction as a prior strike and both the 1999 and 2002 first degree burglary convictions as prior serious felony convictions under section 667,

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<sup>1</sup> Statutory references are to this code.

subdivision (a)(1). Prior to entering his plea, Arellano completed an advisement of rights, waiver and plea form. Arellano acknowledged he had read, initialed and signed the form; he understood the nature of the charge and the consequences of his plea and admissions; and he waived his constitutional rights. Arellano's counsel stipulated to a factual basis for the plea. The trial court found Arellano had knowingly, voluntarily and intelligently waived his constitutional rights and entered his no contest plea.

Pursuant to the plea agreement Arellano was sentenced to an aggregate state prison term of 22 years (consisting of the six-year upper term for residential burglary, doubled, plus two five-year terms for the prior serious felony enhancements). The court ordered Arellano to pay statutory fines, fees and assessments and awarded him 274 days of presentence custody credit. The court dismissed the remaining counts and special allegations under the plea agreement.

Arellano filed a timely notice of appeal in which he checked the preprinted box indicating the appeal was "based on the sentence or other matters occurring after the plea that do not affect the validity of the plea." He did not seek a certificate of probable cause.

### **DISCUSSION**

We appointed counsel to represent Arellano on appeal. After examination of the record counsel filed an opening brief in which no issues were raised.

On July 25, 2017 we advised Arellano he had 30 days within which to submit any contentions or issues he wished us to consider. On August 23, 2017 we received a five-page hand-printed supplemental brief in which Arellano claimed his 2002

first degree burglary conviction was invalid because he had not pleaded guilty to that offense. According to Arellano, he had pleaded guilty instead to other offenses, the circumstances of which he described in his supplemental brief. Arellano also asserts his defense counsel provided ineffective assistance by failing to investigate the validity of the 2002 conviction at his request before he entered his plea.

Arellano's claims are not cognizable on appeal. A criminal defendant who appeals his or her conviction following a plea of guilty or no contest without a certificate of probable cause may only challenge the denial of a motion to suppress evidence under section 1538.5 or present issues arising after the entry of the plea that do not affect the validity of the plea. (§ 1237.5; Cal. Rules of Court, rule 8.304(b)(1).) By contesting his prior strike conviction, Arellano is effectively challenging the validity of his plea.

With respect to other potential sentencing or post-plea issues that do not in substance challenge the validity of the plea, we have examined the record and are satisfied appellate counsel for Arellano has fully complied with her 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 judgment is affirmed.

PERLUSS, P. J.

We concur:

ZELON, J.

BENSINGER, J.\*

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