

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

THE PEOPLE,

Plaintiff and Respondent,

v.

STEPHEN RICARDO BANKS,

Defendant and Appellant.

2d Crim. No. B280288
(Super. Ct. No. BA426186)
(Los Angeles County)

Following resentencing, Stephen Ricardo Banks appeals a judgment of conviction for first degree murder (Pen. Code, § 187, subd. (a))¹, assault with a semiautomatic firearm (§ 245, subd. (b)), and felon in possession of a firearm (§ 29800, subd. (a)(1)), with a prior strike enhancement (§§ 667, subds. (b) - (i); 1170.12, subds. (a) - (d)) and firearm use and on-bail enhancements (§§ 12022.53, subd. (d); 12022.5, subd. (a);

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

12022.1). The trial court sentenced appellant to 81 years to life state prison.

We appointed counsel to represent appellant in this appeal. After counsel's examination of the record, he filed an opening brief raising no issues. (*People v. Wende* (1979) 25 Cal.3d 436, 441.) On June 1, 2017, we advised appellant that he had 30 days within which to personally submit any contentions or issues that he wished to raise on appeal. We have received no response from appellant.

Procedural History

On June 15, 2016, the Second Appellate District, Division Three affirmed appellant's conviction but vacated the 108-year-to-life sentence on the ground that the trial court erroneously sentenced appellant as a Three Strikes offender and erroneously imposed three on-bail enhancements when it should have only imposed one. (B260181.)² Appellant raised the same sentencing errors in a habeas petition, based on ineffective assistance of trial counsel. (B266129.) Our colleagues in Division Three denied the habeas petition on June 15, 2016 and remanded the matter for resentencing. (B266129, B260181.)

On January 11, 2017, appellant appeared for resentencing. Appellant was sentenced to 81 years to life state prison based on the following sentence calculation: On count 1 for first degree murder, the trial court imposed a base term of 25 years to life, doubled the term based on the second strike (see §§ 667, subd. (e)(1); 1170.12, subd. (c)(1)), and added a term of 25

² We grant appellant's request for judicial notice of the record of appeal in B260181, all briefs and pleadings filed in B260181, and the court's unpublished opinion in B260181. (Evid. Code, §§ 452, subd. (d); 459.)

years to life for personal and intentional discharge of a firearm causing death (§ 12022.53, subd. (d)); on count 3 for felon in possession of a firearm, the trial court sentenced appellant to the midterm of two years, doubled the term to four years based on the prior strike conviction, and added two years on the on-bail enhancement; (§ 12022.1); the determinate six-year sentence on count 3 was ordered to be served first before the 75-year-to-life indeterminate sentence on count 1; on count 2 for assault with a semiautomatic firearm, the trial court stayed the sentence pursuant to section 654. After appellant filed a notice of appeal, the trial court granted appellant's motion to recalculate his presentence custody credits and awarded, nunc pro tunc, 1,302 days presentence custody credit. An amended abstract of judgment was filed and served May 16, 2017.

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. Wende, supra*, 5 Cal.3d at p. 443; *People v. Kelly* (2006) 40 Cal.4th 106, 126.)

The judgment is affirmed.

NOT TO BE PUBLISHED.

YEGAN, J.

We concur:

GILBERT, P. J.

TANGEMAN, J.

Monica Bachner, Judge

Superior Court County of Los Angeles

Edward H. Schulman, under appointment by the
Court of Appeal, for Defendant and Appellant.

No appearance by Respondent.