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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

MILTON LAVENDER,

Defendant and Appellant.

B291166

(Los Angeles County
Super. Ct. No. BA464199)

APPEAL from a judgment of the Superior Court of Los Angeles County, Ray Jurado, Judge. Affirmed.

Law Offices of Jenny Brandt, Jenny M. Brandt, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On January 7, 2018, two officers observed defendant Milton Lavender moving his hand back and forth and side to side against a park wall. When one of the officers shined a light on

him, defendant dropped a spray paint can on the ground and kicked it. Defendant had fresh paint on his hands and the spray can had fresh paint on its tip. The paint on the graffiti was still wet and defendant stood in front of graffiti that was approximately six feet high and 20 feet long. It would cost approximately \$472 to paint over the graffiti.

On February 14, 2018, the Los Angeles County District Attorney filed an information charging defendant with felony vandalism, in violation of Penal Code section 594, subdivision (a).¹ The District Attorney also alleged that defendant committed the offense for the benefit of, at the direction of, and in association with a criminal street gang, within the meaning of section 186.22, subdivision (d). Finally, the District Attorney alleged numerous sentencing enhancements.

Following the preliminary hearing, the trial court struck the gang enhancement for insufficient evidence.

On May 8, 2018, defendant pleaded guilty to felony vandalism and admitted that he had sustained a prior strike conviction for bank robbery on November 21, 2002. The trial court accepted the guilty plea and found the prior strike allegation true. The court sentenced defendant to the low term of 16 months in state prison, which it doubled to 32 months, pursuant to sections 1170.12, subdivision (b) and 667, subdivisions (b) through (j). Defendant agreed to pay restitution to the City of Los Angeles in the amount of \$472.

On July 2, 2018, defendant filed a notice of appeal, requesting a certificate of probable cause. Defendant contended

¹ All further statutory references are to the Penal Code.

that the maximum sentence for his offense was one year and one day in county jail, and that he had accepted the plea offer under pressure from his attorney. He requested that he be resentenced to one year in county jail or a fine. The trial court denied the request for certificate of probable cause.

We appointed counsel to represent defendant on appeal. Defendant's appointed appellate counsel filed an opening brief in accordance with *People v. Wende* (1979) 25 Cal.3d 436 requesting that we independently review the entire record to determine if there are any arguable issues. On October 12, 2018, we notified defendant that appointed appellate counsel had failed to find any arguable issues and that he had 30 days within which to independently brief any grounds for appeal, contentions, or arguments he wanted us to consider. Defendant did not file a response to our notice.

We have reviewed the record and are satisfied that defendant's appointed appellate counsel has fully complied with her responsibilities and no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

DISPOSITION

The judgment is affirmed.

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KIM, J.

We concur:

BAKER, Acting P.J.

MOOR, J.