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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

MATTHEW LOUIS JOHNSON,

Defendant and Appellant.

B283156

(Los Angeles County
Super. Ct. No. GA024010)

THE COURT:*

On September 30, 1997, Matthew Louis Johnson (appellant) was convicted of four counts of robbery (Pen. Code, § 211),¹ one count of attempted robbery (§§ 664, 211), and two counts of possession of a firearm by a felon (former § 12021, subd. (a)(1)). He was later sentenced to 78 years to life in state

*ASHMANN-GERST, Acting P. J., CHAVEZ, J., HOFFSTADT, J.

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

prison. In May 2017, appellant filed a motion for modification of sentence that the trial court treated as a petition for recall and resentencing pursuant to Proposition 47.² The trial court denied the petition on the ground that the “specified offense[s] is/are ineligible.”

Appellant appeals the denial of his petition. His appointed counsel filed a no merit brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441 (*Wende*), raising no issues for us to consider. On October 5, 2017, we notified appellant of the no merit brief and gave him leave to file, within 30 days, a brief or letter setting forth any arguments supporting his appeal. He filed a letter on October 16, 2017.

In his letter, appellant requests that we remand this case back to the trial court to resentence him based on his prison conduct or other grounds. For the reasons discussed below, we cannot grant this request.

Section 1170.18, subdivision (a) provides that a person who was serving a sentence on November 5, 2014, for a felony or felonies that would have been misdemeanors under Proposition 47 may petition for a recall of sentence in accordance with sections 459.5, 473, 476a, 490.2, 496, and 666, and Health and Safety Code sections 11350, 11357, or 11377. Appellant’s

² The voters enacted Proposition 47 on November 4, 2014. (*People v. Lynall* (2015) 233 Cal.App.4th 1102, 1108 (*Lynall*).) It added statutes, including section 1170.18, and amended others. Substantively, it “makes certain drug- and theft-related offenses misdemeanors, unless the offenses were committed by certain ineligible defendants. These offenses had previously been designated as either felonies or wobblers (crimes that can be punished as either felonies or misdemeanors).” (*Lynall, supra*, at p. 1108.)

offenses pursuant to sections 211, 664/211 and former section 12021 are not enumerated under Proposition 47. As a result, it did not reclassify those offenses as misdemeanors, and appellant is not eligible to be resentenced. (*People v. Descano* (2016) 245 Cal.App.4th 175, 181.)

We are satisfied that appellant's counsel complied with her responsibilities. We conclude that appellant has received adequate and effective appellate review of the order entered against him by virtue of counsel's compliance with the *Wende* procedure, and our review of the record. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.) The order is affirmed.

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