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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.

LARRY ARMSTRONG,

Defendant and Appellant.

B240041

(Los Angeles County
Super. Ct. No. MA053482)

THE COURT:*

Appellant Larry Armstrong appeals from the judgment entered following his plea of no contest to one count of first degree residential burglary with a person present in violation of Penal Code section 459. The trial court sentenced appellant to 23 years in state prison, which consisted of the upper term of six years doubled to 12 years based on appellant's admission of a prior burglary "strike" under Penal Code section 1170.12, subdivisions (a)-(d), plus 11 years based on appellant's admission of two prior serious felony convictions pursuant to Penal Code section 667, subdivision (a)(1). Appellant was ordered to pay fines and fees.

* BOREN, P. J., DOI TODD, J., ASHMANN-GERST, J.

The judgment was filed on October 20, 2011. On November 22, 2011, appellant filed a motion to withdraw his plea on the grounds that he was not arraigned within 48 hours of his arrest, he was not competent at the time he made his plea because he was taking “psych-medications,” and he received ineffective assistance of counsel because his attorney did not properly negotiate his plea. The court heard the motion on December 20, 2011, with appellant and his attorney present. The court treated the motion as one filed under *People v. Marsden* (1970) 2 Cal.3d 118, and denied it. On December 29, 2011, appellant filed the same motion, which the court took off calendar. The court notified appellant of its action by letter dated January 17, 2012. Apparently, appellant refiled his original motion. The court took no action on the motion, as indicated by minute order dated February 7, 2012. On February 22, 2011, appellant filed a notice of appeal and requested a certificate of probable cause to challenge the denial of his plea withdrawal motion. The trial court granted the certificate of probable cause on March 9, 2012.

We appointed counsel to represent appellant on this appeal. After examination of the record, counsel filed an “Opening Brief” in which no arguable issues were raised. On May 30, 2012, we advised appellant that he had 30 days within which to personally submit any contentions or issues that he wished us to consider. No response has been received to date.

We have examined the entire record and conclude that it provides a factual basis to support the conviction. Testimony given at the preliminary hearing by Deputy Sheriff John Amis of the Lancaster Station Patrol established that appellant was seen by an occupant of a residence walking away from the residence pulling an air compressor that had been in the garage. Appellant did not have permission to take the compressor. The occupant and her mother, who was also in the residence at the time, followed appellant on the sidewalk. The mother told appellant, “Hey, stop. That’s my compressor.” Appellant responded that he had bought the compressor from someone else. He then released it and walked away until he was arrested.

Additionally, we have reviewed the sealed transcript on the *Marsden* hearing, and find no error in the denial of the motion to withdraw the plea.

We are satisfied that appellant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.

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