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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.

MARVIN HARKINS,

Defendant and Appellant.

B239051

(Los Angeles County
Super. Ct. No. BA384109)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Antonio Barreto Jr., Judge. Affirmed.

J. Kahn, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Marvin Harkins was charged in an amended information with first degree murder (Pen. Code, § 187, subd. (a))¹ with a special allegation he had personally used a deadly weapon to commit the offense (§ 12022, subd. (b)). Represented by appointed counsel, Harkins pleaded not guilty to the charge and denied the special allegation.

According to the evidence at trial, Raymond Sweet was found bludgeoned to death at a residential facility for the mentally ill and substance abusers, where both he and Harkins were living at the time. In an audio-taped interview with the police, Harkins admitted he had repeatedly struck Sweet in the head with a sledge hammer. Harkins told the officers he suffered from posttraumatic stress syndrome and mental illness caused by childhood sexual abuse and had become enraged when Sweet spoke about creating a pornographic website. Harkins acknowledged he left Sweet to get the sledge hammer, but insisted he had not intended to kill Sweet when striking him with it.

The jury convicted Harkins of first degree murder and found true the weapon-use enhancement allegation. At the sentencing hearing Harkins expressed remorse and requested a life sentence. The court imposed an aggregate state prison sentence of 26 years to life. The court ordered Harkins to pay a \$40 court security fee, a \$30 criminal conviction assessment, a \$200 restitution fine and \$5,000 in victim restitution. The court imposed and suspended a parole revocation fine pursuant to section 1202.45. Harkins was awarded a total of 282 days of presentence credit.

We appointed counsel to represent Harkins on appeal. After examination of the record, counsel filed an opening brief in which no issues were raised. On September 6, 2012 we advised Harkins he had 30 days in which to personally submit any contentions or issues he wished us to consider. No response has been received to date.

¹ Statutory references are to the Penal Code.

We have examined the record and are satisfied Harkins's attorney has fully complied with the responsibilities of counsel and no arguable issue exists. (*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, 112-113; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.

PERLUSS, P. J.

We concur:

WOODS, J.

JACKSON, J.