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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

LEE W. EGGERSTEIN,

Defendant and Appellant.

B295301

(Los Angeles County
Super. Ct. No. ZM026667)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Teresa Estrada-Mullaney, Judge.
Dismissed.

Christian C. Buckley, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Appellant Lee Eggertsen¹ appealed following a recommitment bench trial under the Mentally Disordered Offender Act (MDOA), Penal Code section 2960, et seq.² His appointed counsel on appeal filed a brief requesting that we independently review the record for error pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *Anders v. California* (1967) 386 U.S. 738 (*Anders*). “[A]ppeals from civil commitments under the [MDOA] are . . . exempt from the *Anders/Wende* review requirements.” (*People v. Taylor* (2008) 160 Cal.App.4th 304, 307-308 (*Taylor*)). We therefore dismiss the appeal.

BACKGROUND

According to documents included in the record on appeal, in 2005 appellant was convicted of assault with a deadly weapon by means likely to produce great bodily injury (§ 245, subd. (a)(1)), and sentenced to an eight-year prison term. After displaying symptoms of delusional beliefs while incarcerated, appellant was committed under the MDOA; the date of commitment is not clear from the record. In June 2015, the Los Angeles County District Attorney (the People) petitioned to have appellant’s commitment extended. (§ 2970.) In January 2016, following a court trial, the superior court granted the petition and extended appellant’s commitment through December 18, 2016. In July 2016, the People again petitioned to have appellant’s commitment

¹ Appellant’s last name throughout the record is spelled “Eggerstein,” but appellant testified several times that his last name is spelled “Eggertsen.”

² All further statutory references are to the Penal Code unless otherwise indicated.

extended. Appellant did not contest the petition, and the court ordered the commitment to be extended through December 18, 2017. In September 2017, the People filed another petition to extend appellant's commitment. Again appellant did not contest the petition, and the court ordered the commitment to be extended through December 18, 2018. It does not appear that appellant appealed any of these court orders.

On September 6, 2018, the People filed another petition to extend appellant's commitment. Following a bench trial on January 15, 2019, the court extended appellant's commitment through December 18, 2019. Appellant appealed.

DISCUSSION

Appellant's appointed counsel on appeal filed a brief requesting that we independently review the record for error pursuant to *Wende, supra*, 25 Cal.3d 436. We directed counsel to send the record and a copy of the brief to defendant, and notified defendant of his right to respond within 30 days. We received no response.

Independent review under *Wende* and *Anders* is available “[i]n an indigent criminal defendant’s first appeal as a matter of right . . . if appointed counsel represents he or she has found no arguable issues.” (*Conservatorship of Ben C.* (2007) 40 Cal.4th 529, 535.) As noted above, “appeals from civil commitments under the [MDOA] are . . . exempt from the *Anders/Wende* review requirements.” (*Taylor, supra*, 160 Cal.App.4th at pp. 307-308.) Independent review is therefore not available in this case. “Dismissal of an appeal raising no arguable issues” is appropriate. (*Ben C., supra*, 40 Cal.4th at p. 544.)

DISPOSITION

The appeal is dismissed.

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COLLINS, J.

We concur:

MANELLA, P. J.

WILLHITE, J.