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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.

RONALD DAVE RENTERIA,

Defendant and Appellant.

B275945

(Los Angeles County  
Super. Ct. No. A892646)

THE COURT:\*

In 1989, Ronald Dave Renteria (Renteria) was convicted on two counts of arson of property of another (Pen. Code, § 451, subd. (d)).<sup>1</sup> The trial court sentenced him to the midterm of two years in state prison on the first count, and it imposed a concurrent two-year sentence on the second count.

Following the remittitur after an appeal, the sentence on the second count was stayed pursuant to section 654. On May 16, 2016, while Renteria was in Mule Creek State Prison, he filed a petition for resentencing and reduction of

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

<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

the two counts of arson of property of another to misdemeanors under Proposition 47. Subsequently, he requested appointment of counsel and the right to be present for the Proposition 47 hearing. On June 20, 2016, the trial court denied appellant's petition because the first and second counts "are not eligible for resentencing or reduction under Proposition 47." Neither Renteria nor counsel representing him were present at the hearing.

Renteria now appeals. 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 24, 2016, we notified Renteria 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. Renteria did not file a brief or letter.

On November 14, 2016, Renteria filed a motion for reappointment and/or substitution of appellant counsel. We denied his motion. His motion contained various arguments on the merits. We have reviewed his arguments, and none are availing. Simply put, Proposition 47 is not applicable.

Section 1170.18 was enacted pursuant to Proposition 47. Subdivision (a) of section 1170.18 provides: "A person who, on November 5, 2014, was serving a sentence for a conviction, whether by trial or plea, of a felony or felonies who would have been guilty of a misdemeanor under the act that added this section ('this act') had this act been in effect at the time of the offense may petition for a recall of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing in accordance with Sections 11350, 11357, or 11377 of the Health and Safety Code, or Section 459.5, 473, 476a, 490.2, 496, or 666 of the Penal Code, as those sections have been amended or added by this act." Subdivision (b) of

section 1170.18 provides: “Upon receiving a petition under subdivision (a), the court shall determine whether the petitioner satisfies the criteria in subdivision (a). If the petitioner satisfies the criteria in subdivision (a), the petitioner’s felony sentence shall be recalled and the petitioner resentenced to a misdemeanor pursuant to Sections 11350, 11357, or 11377 of the Health and Safety Code, or Section 459.5, 473, 476a, 490.2, 496, or 666 of the Penal Code, as those sections have been amended or added by this act, unless the court, in its discretion, determines that resentencing the petitioner would pose an unreasonable risk of danger to public safety. . . .”

Renteria failed to demonstrate that the criteria in section 1170.18, subdivision (a) were satisfied. He does not argue that in 2016 he was still in prison serving a two-year sentence based on the 1989 conviction. Moreover, section 451 is not one of the enumerated felonies that can be reduced to a misdemeanor. We note that the current version of section 451, subdivision (d) provides, *inter alia*: “Arson of property is a felony punishable by imprisonment in the state prison for 16 months, two, or three years. . . .” Thus, if Proposition 47 had been in effect at the time that Renteria committed the subject offenses, they still would have been felonies.

We are satisfied that Renteria’s counsel complied with his responsibilities. We conclude that Renteria has received adequate and effective appellate review of the judgment 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 judgment is affirmed.

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