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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

LAROD SHARIF JONES,

Defendant and Appellant.

B290118

(Los Angeles County
Super. Ct. No. MA072193)

APPEAL from a judgment of the Superior Court of Los Angeles County, Michael D. Abzug, Judge. Affirmed.

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

No appearance for Plaintiff and Respondent.

Defendant and appellant Larod Sharif Jones pled no contest to two counts of assault with a semiautomatic firearm, with a firearm enhancement. In accordance with a negotiated disposition, the trial court sentenced Jones to 16 years in prison. We affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND¹

1. *Facts*

In September 2017, Gina B. lived with her son and daughter in a Palmdale apartment. Gina's friend, Tia Johnson, had been living with Gina, but had moved out during the prior month.

On the evening of September 11, 2017, Johnson, accompanied by Jones, came to Gina's apartment, retrieved Johnson's belongings, and placed them in Jones's truck. Jones returned to Gina's apartment and pounded on the front door, yelling that a pair of Johnson's shoes remained inside. Gina replied that what was going on between her and Johnson was none of Jones's business. Jones and Gina cursed at each other. Jones referenced a criminal street gang, which Gina understood to be a threat. Jones and Johnson left, and Gina called 911.

Gina took her daughter and drove to the nearby apartment where Johnson was living, intending to "cuss [Johnson] out." When Gina arrived, Johnson and Jones were outside, unloading the truck. Gina yelled, " 'Tia, why would you bring somebody like that to my house, to come to my house and threaten me? What's wrong with you? I called the police.' " Jones replied, " 'Fuck you, bitch.' "

¹ We derive the facts from the preplea probation report and the evidence adduced at the preliminary hearing.

Gina drove up the street, made a U-turn, and drove past Johnson's apartment again. She and Jones cussed at each other. Jones pulled a semiautomatic firearm from beneath his shirt and fired three shots at Gina, hitting her vehicle twice. Jones then drove off in his truck. Gina exited her vehicle and became embroiled in a physical altercation with Johnson. When Gina observed Jones's truck returning to the apartment, she and her daughter left.

Los Angeles Deputy Sheriff Alex Guerra was nearby, heard the gunshots, and drove to the area from which they emanated. Gina flagged him down, explained what had happened, and pointed out Jones's truck, which was nearby. Guerra attempted to stop Jones, but Jones made a U-turn and sped off. Jones led Guerra on a pursuit lasting approximately 12 minutes. During the chase, Jones drove on the sidewalk, drove on the wrong side of the road, ran several stop signs and at least one red light, and exceeded the speed limit. When Jones reached a dead end, he exited the truck, jumped a wall, sprinted through a field, and climbed on top of an apartment building. When he jumped off the roof, he was taken into custody.

2. Procedure

The People charged Jones with two counts of willful, deliberate, and premeditated attempted murder (Pen. Code, §§ 664, 187, subd. (a),² counts 1 and 2), assault with a semiautomatic firearm (§ 245, subd. (b), counts 3 and 4), discharging a firearm with gross negligence (§ 246.3, subd. (a), count 5) and reckless evading (Veh. Code, § 2800.2, count 6). The information also alleged that Jones personally used and

² All further undesignated statutory references are to the Penal Code.

discharged a firearm (§ 12022.53, subds. (b), (c), counts 1 and 2; § 12022.5, subd. (a), counts 1 through 4); and had suffered a prior conviction for robbery, a serious or violent felony (§§ 667, subds. (a)(1), (b) – (i), 1170.12).

On March 14, 2018, pursuant to a negotiated disposition, Jones pled no contest to counts 3 and 4, assault with a semiautomatic firearm, and admitted personally using a firearm within the meaning of section 12022.5, subdivision (a), during commission of the offenses. Prior to entering his plea, Jones was advised of, and waived, his rights to a jury trial; to confront and cross-examine witnesses; to subpoena witnesses and present a defense; and against self-incrimination. He was also advised of the charges against him, the potential maximum sentence, and the possible consequences of a no contest or guilty plea, including the potential immigration consequences. The trial court found there was a factual basis for Jones's plea, and sentenced him to the agreed-upon term of 16 years in prison, configured as follows: on count 3, the base count, the midterm of six years, plus a consecutive 10-year term for the firearm enhancement, along with an identical, concurrent term on count 4. The trial court dismissed the remaining counts and allegations. It imposed a restitution fine, a suspended parole revocation restitution fine, a court security fee, and a criminal conviction assessment. It awarded Jones 185 days of actual custody credit and 27 days of conduct credit, for a total of 212 days. (§§ 2933.1, 667.5, subd. (c)(8).)

On April 6, 2018, Jones, acting in propria persona, filed a handwritten document seeking to withdraw his no contest pleas, claiming he pled because he was under duress, had received “deceptive advice,” and his counsel provided ineffective

assistance. On April 9, 2018, the trial court ordered the purported motion lodged but not filed, because (1) it had not been served upon the People, (2) it failed to comply with the rules of court, and (3) its allegations were conclusionary and unsworn. Accordingly, the court found the motion was “ineffective and of no legal consequence,” and concluded no hearing was required.

On May 10, 2018, Jones filed a timely notice of appeal, stating that his appeal was based on the sentence or other matters occurring after the plea, which did not affect the plea’s validity. Jones did not obtain a certificate of probable cause.

DISCUSSION

After review of the record, Jones’s court-appointed counsel filed an opening brief that raised no issues, and requested this court to conduct an independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. We advised appellant that he had 30 days to submit by brief or letter any contentions or argument he wished this court to consider. We have received no response.

Pursuant to section 1237.5 and California Rules of Court, rule 8.304(b), a criminal defendant who appeals following a plea of no contest or guilty, without a certificate of probable cause, may only challenge the denial of a motion to suppress evidence or raise grounds arising after the entry of the plea that do not affect the plea’s validity. (*People v. Johnson* (2009) 47 Cal.4th 668, 676–677; *People v. French* (2008) 43 Cal.4th 36, 43.) In particular, a defendant must obtain a certificate of probable cause in order to appeal from the denial of a motion to withdraw a plea. (*People v. Johnson*, at p. 679 [a “defendant must obtain a certificate of probable cause in order to appeal from the denial of a motion to withdraw a guilty plea, even though such a motion

involves a proceeding that occurs *after* the guilty plea”]; *In re Chavez* (2003) 30 Cal.4th 643, 651.) A certificate of probable cause is likewise required “when a defendant claims that a plea was induced by misrepresentations of a fundamental nature” (*People v. Panizzon* (1996) 13 Cal.4th 68, 76), or that he or she received ineffective assistance of counsel prior to the plea (*People v. McEwan* (2007) 147 Cal.App.4th 173, 178; *People v. Stubbs* (1998) 61 Cal.App.4th 243, 244–245).

With respect to sentencing or post-plea issues that do not in substance challenge the validity of the plea itself, we have examined the record and are satisfied no arguable issues exist and Jones’s attorney has fully complied with the responsibilities of counsel. (*People v. Kelly* (2006) 40 Cal.4th 106, 126; *People v. Wende, supra*, 25 Cal.3d at pp. 441–442.)

DISPOSITION

The judgment is affirmed.

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EDMON, P. J.

We concur:

EGERTON, J.

DHANIDINA, J.