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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.

TONY BERNARD MADISON,

Defendant and Appellant.

B272032

(Los Angeles County
Super. Ct. No. BA415592)

APPEAL from an order of the Superior Court of
Los Angeles County, Norman J. Shapiro, Judge. Affirmed,
Emily L. Brough, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

FACTUAL AND PROCEDURAL BACKGROUND

Tony Bernard Madison filed a petition to recall his current felony sentence on 10 counts of second degree burglary and for resentencing as a misdemeanor under Proposition 47, the Safe Neighborhoods and Schools Act (Pen. Code, § 1170.18). The trial court denied the petition, finding Madison's conviction did not qualify for resentencing as misdemeanor shoplifting. Madison filed a timely notice of appeal.

DISCUSSION

We appointed counsel to represent Madison on appeal. After reviewing the record, counsel filed an opening brief raising no issues. We advised Madison he had 30 days to file a supplemental brief raising any contentions or issues he wanted us to consider. We have not received a response.

We have examined the record and are satisfied appellate counsel for Madison has fully complied with her responsibilities and there are no arguable issues. (*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, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.) Madison entered the commercial establishments while they were closed, rather than “during regular business hours,” as required by Penal Code section 459.5, subdivision (a). The trial court correctly ruled Madison's convictions did not qualify for reclassification or resentencing pursuant to Penal Code section 1170.18, subdivision (a).

DISPOSITION

The order is affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

SMALL, J.*

*Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.