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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.

SHAUN MARSHALL ROPER,

Defendant and Appellant.

B270646

(Los Angeles County  
Super. Ct. Nos. BA355704 &  
BA270225)

THE COURT:\*

Defendant and appellant Shaun Marshall Roper (defendant) appeals from the order denying his petitions for resentencing under the provisions of Proposition 47, which reduce some felony theft offenses to misdemeanors. His appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues. On September 19, 2016, we notified defendant of his counsel's brief and gave him leave to file, within 30 days, his own brief or letter stating any grounds or argument he might wish to have considered. That time has

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\* BOREN, P.J., ASHMANN-GERST, J., CHAVEZ, J.

elapsed, and defendant has submitted no brief or letter. We have reviewed the entire record, and finding no arguable issues, affirm the order.

In 2004, defendant was charged with forgery, in violation of Penal Code section 476<sup>1</sup> in Superior Court case No. BA270225. After waiving a preliminary hearing and a plea of no contest, he was convicted of the charge and sentenced to 16 months in prison.

In 2009, defendant was charged with 12 counts of forgery in violation of section 470, subdivision (d) in Superior Court case No. BA355704. Pursuant to a plea agreement defendant pled no contest to one count and the remaining counts were dismissed. The trial court sentenced defendant to three years in prison, imposed mandatory fines and fees, and ordered direct victim restitution in the amount of \$4,635.50.

In November 2015, defendant filed applications pursuant to section 1170.18<sup>2</sup> (Proposition 47), to have his forgery convictions reduced to misdemeanors. Under Proposition 47, forgery is a misdemeanor if the value of the forged instrument is less than \$950, with some exceptions that do not appear to be applicable here. (§ 473, subd. (b).) On December 28, 2015, the trial court

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

<sup>2</sup> Section 1170.18, subdivision (a), provides, in relevant part: “A person currently 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 . . . Section[] . . . 473, . . . as those sections have been amended or added by this act.”

denied both petitions on the ground that defendant had failed to provide evidence that the value of the instrument was less than \$950, and thus failed to meet his burden of proof.<sup>3</sup>

We have examined the entire record and are satisfied that defendant's appellate counsel has complied with his responsibilities and that no arguable issue exists. We conclude that defendant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*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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<sup>3</sup> See *People v. Rivas-Colon* (2015) 241 Cal.App.4th 444, 449-450; *People v. Sherow* (2015) 239 Cal.App.4th 875, 879-880.