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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE L. CORTES,

Defendant and Appellant.

B296033

(Los Angeles County
Super. Ct. No. VA130706)

APPEAL from an order of the Superior Court of Los Angeles County. Mildred Escobedo, Judge. Affirmed.

Ann Krausz, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

* * * * *

In July 2014, pursuant to a negotiated plea agreement, defendant and appellant Jose L. Cortes, who was facing nine separate counts, pled no contest to carjacking (Pen. Code, § 215, subd. (a) [count 1]) and second degree robbery (§ 211 [count 8]). Defendant admitted an allegation of personal gun use as to both counts (§ 12022.53) and further admitted having suffered a prior conviction for a serious or violent felony within the meaning of the “Three Strikes” law and section 667, subdivision (a)(1).

The parties stipulated to a factual basis for the plea and the court accepted defendant’s waivers on the record, finding them to have been knowingly, intelligently and voluntarily made. The remaining counts and special allegations were dismissed pursuant to Penal Code section 1385.

In accordance with the negotiated terms of the agreement, the court sentenced defendant to state prison for 23 years, calculated as follows: the low term of three years on count 1, doubled due to the strike prior, plus a consecutive 10-year term for the gun use enhancement and a consecutive 5-year term pursuant to Penal Code section 667, subdivision (a)(1); and, a consecutive one-year term on count 8 (one-third the midterm), doubled due to the strike prior. The court imposed and stayed a 10-year term for the gun use enhancement as to count 8.

In January 2019, almost five years after defendant’s conviction, he filed a petition for resentencing in the trial court. The petition appears to be substantially similar to the petition for resentencing, based on the passage of Senate Bill No. 1393, that is the subject of a companion appeal filed by defendant (case No. B297574).

The trial court interpreted the petition as seeking resentencing based on the passage of Senate Bill No. 620, not

Senate Bill No. 1393. The court denied the petition, finding the new amendatory provisions did not apply to defendant's long-final conviction. Defendant appealed.

We appointed appellate counsel to represent defendant. Appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) in which no issues were raised. The brief included a declaration from counsel that she reviewed the record and sent a letter to defendant explaining her evaluation of the record. Counsel further declared she advised defendant of his right, under *Wende*, to submit a supplemental brief within 30 days.

This court sent a letter to defendant on August 6, 2019, giving notice of the filing of the *Wende* brief and of defendant's rights to file a supplemental brief. Defendant did not file a brief in this appeal.

We have examined the entire record and are satisfied that appointed counsel fully complied with her responsibilities in assessing whether any colorable appellate issues exist. We conclude there are no arguable appellate issues. (*People v. Kelly* (2006) 40 Cal.4th 106; *Wende, supra*, 25 Cal.3d 436.)

DISPOSITION

The judgment of conviction is affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

WILEY, J.