

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

JUANITA SIMPSON,

Defendant and Appellant.

B270881

(Los Angeles County
Super. Ct. No. GA095997)

APPEAL from a judgment of the Superior Court of Los Angeles County, Laura Priver, Judge. Affirmed.

Erick V. Munoz, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Juanita Simpson appeals from the denial of her petition for resentencing under Penal Code¹ section 1170.18 (Proposition 47).² On June 30, 2015, defendant plead no contest to taking a vehicle without the owner's consent in violation of Vehicle Code section 10851 and admitted she had a prior theft conviction pursuant to Penal Code section 666.5. Defendant also admitted the value of the vehicle taken was over \$950. Defendant received a three-year sentence to be served in local custody.

On November 18, 2015, defendant filed a pleading in superior court which appeared to combine a habeas corpus petition with a Proposition 47 resentencing petition. In what we consider to be the habeas corpus portion of the petition, defendant asserted she was deprived of the effective assistance of counsel. With regard to Proposition 47, defendant argued she should be resentenced to a misdemeanor pursuant to section 1170.18. The trial court denied the petition.

We appointed counsel to represent defendant on appeal. After examination of the record, appointed appellate counsel filed a brief in which no issues were raised. Instead, counsel requested we independently review the entire record on appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441. (See *Smith v. Robbins* (2000) 528 U.S. 259, 265-284.) On August 15,

¹ Further statutory references are to the Penal Code unless otherwise noted.

² Among other things, Proposition 47 provides a vehicle for a defendant convicted of felony theft to petition the trial court for reduction of the offense to a misdemeanor if the offense has been reclassified, pursuant to section 490.2, to misdemeanor petty theft.

2016, we advised defendant that she had 30 days within which to personally submit any contentions or arguments she wishes us to consider. No response has been received.

We find no issues that require further briefing. First, defendant is not entitled to appeal the denial of a habeas corpus petition. (*In re Clark* (1993) 5 Cal. 4th 750, 767, fn. 7.)

Second, the issue of whether Proposition 47 applies to violations of Vehicle Code section 10851 is pending before the California Supreme Court. (See *People v. Page* (2015) 241 Cal.App.4th 714, review granted Jan. 27, 2016, S230793; *People v. Solis* (2016) 245 Cal.App.4th 1099, review granted June 8, 2016, S234150.) Nonetheless, even if Proposition 47 *could* apply to such violations and thereby reduce such an offense to misdemeanor petty theft, it would not under these circumstances because the value of the property taken exceeded \$950. (See § 490.2, subd. (a) [theft of property must not exceed \$950 if it is to be considered petty theft and punished as a misdemeanor].)

DISPOSITION

The order denying the resentencing petition is affirmed.
NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

KUMAR, J. *

We concur:

TURNER, P. J.

KRIEGLER, J.

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