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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES ALVAREZ,

Defendant and Appellant.

2d Crim. No. B265741
(Super. Ct. No. 2012005473)
(Ventura County)

James Alvarez appeals a postjudgment order denying his motion to modify postrelease community supervision (PRCS; Pen. Code, § 3450 et seq.)¹ to permit the use of medical marijuana. Appellant pled guilty to felony possession of ammunition (Pen. Code, § 30305, subd. (a)(1)) and was sentenced to 32 months state prison. On July 26, 2014, appellant was released from prison on PRCS with drug terms.

On February 24, 2015, appellant requested that the trial court modify his PRCS conditions to permit the use of medical marijuana based on a letter from Dr. Breckenridge. A probation officer contacted the doctor and said that Dr. Breckenridge was not the doctor who had treated appellant's fracture and that Dr. Breckenridge had not "prescribed" marijuana.² The doctor reported that the fracture occurred a very long time ago and that if appellant were to experience ongoing pain, medical marijuana was preferable to

¹ All statutory references are to the Penal Code unless otherwise stated.

² Marijuana cannot be "prescribed".

narcotic medication due to appellant's history of drug abuse. The trial court denied the motion to modify PRCS, saying that the doctor's letter was not a "prescription" and that the doctor could prescribe Marinol, which is a legitimate marijuana in pill fashion.

We appointed counsel to represent appellant on this appeal. After examination of the record, counsel filed an opening brief in which no issues were raised. On January 13, 2016, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. We have received no response from appellant.

The probation report reflects that, in 2012, appellant was found with a glass smoking pipe, a baggie of methamphetamine, a prescription bottle containing Clonazepam pills, and a bag of rifle ammunition. Appellant had an extensive criminal record that included two prior strike convictions and a prior prison commitment based on drug and gang related offenses. After appellant was released on PRCS, he tested positive for marijuana on five occasions, admitted using marijuana, and told his probation officer that he had no health problems or medical need for marijuana. The record further reflects that, on February 4, 2015, appellant was stopped driving a vehicle containing 34 ounces of marijuana that belonged to appellant's friend.

We have examined the entire record and are satisfied that appellant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441; *People v. Kelly* (2006) 40 Cal.4th 106, 125-126.)

The judgment is affirmed.

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YEGAN, J., Acting P.J.

We concur:

PERREN, J.

TANGEMAN, J.

Donald Coleman, Judge
Superior Court County of Ventura

Arielle Bases, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.