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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.

DARWIN ANTHONY
SPEARS,

Defendant and Appellant.

2d Crim. No. B287797
(Super. Ct. Nos. BA444830 & BA438811)
(Los Angeles County)

Darwin Anthony Spears appeals a January 5, 2018 postjudgment order revoking probation in case nos. BA444830 and BA438811 and ordering appellant to serve the remainder of his five-year county jail split sentences imposed pursuant to Penal Code section 1170, subdivision (h)(1). All fines, fees, and costs previously ordered were stayed based on the finding that appellant does not have the ability to pay due to the length of time he will spend in custody.

In case no. BA438811, appellant pled nolo contendere to one count of sale/transporting/offering to sell a controlled

substance (Health & Saf. Code § 11352, subd. (a)) after undercover officers observed appellant make a hand-to-hand heroin sale. In 2016, the trial court imposed a five-year split sentence consisting of three years county jail and two years formal probation. (Pen. Code, § 1170, subd. (h)(1).) After several probation violations, the trial court revoked probation on January 5, 2018 and ordered appellant to serve the remainder of the five-year split sentence.

In case no. BA444830, appellant pled nolo contendere to possession of a controlled substance for sale (Health & Saf. Code, § 11351), admitted an out on bail/own recognizance enhancement (Pen. Code, § 12022.1) arising from case no. BA438811, admitted seven prior prison term enhancements (§ 667.5, subd. (b)), and admitted seven prior drug convictions (Health & Saf. Code, § 11370.2) for purposes of a three-year enhancement (Health & Saf. Code, § 11370.2, subd. (a)). The plea was based on a probation report and preliminary hearing transcript reflecting that appellant was found in possession of heroin and syringes after he was detained and arrested on outstanding misdemeanor warrants. In 2016, the trial court imposed an eight-year split sentence consisting of three years county jail, one year in a residential treatment program, and four years formal probation. (Pen. Code, § 1170, subd. (h)(1).) When appellant failed to report to the residential treatment program and violated other probation conditions, the trial court revoked probation on January 5, 2018, struck the three-year Health & Safety Code section 11370.2, subdivision (a) enhancement in the interest of justice, and ordered appellant to serve the remainder of the split sentence in case no. BA444830, to be served

concurrent to the five-year split sentence in case no. BA438811. Mandatory supervision in both cases was ordered terminated.

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 November 1, 2018, we sent a letter to appellant's last known address advising appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. Appellant did not respond.

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, 443; *People v. Kelly* (2006) 40 Cal.4th 106, 125-126.)

The judgments are affirmed.

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YEGAN, J.

We concur:

GILBERT, P. J.

TANGEMAN, J.

Laura F. Priver, Judge

Superior Court County of Los Angeles

Jeffrey J. Douglas, under appointment by the Court
of Appeal, for Defendant and Appellant.

No appearance for Respondent.