

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

LEO CHRISTOPHER WEST,

Defendant and Appellant.

B275746

(Los Angeles County
Super. Ct. No. YA089626)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Alan B. Honeycutt, Judge. Affirmed.

Gideon Margolis, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

FACTUAL AND PROCEDURAL BACKGROUND

The People charged Leo Christopher West with three counts of first degree burglary (Pen. Code, § 459). The People alleged in two of the counts that a person other than an accomplice was present during the commission of the burglaries (Pen. Code, § 667.5, subd. (c)(21)) and in one of the counts that one of the victims was 65 years or older (Pen. Code, § 667.9, subd. (a)). The People also alleged West had suffered three prior serious or violent felony convictions within the meaning of the three strikes law (Pen. Code, § 667, subds. (b)-(j); 1170.12), two serious felony convictions under Penal Code section 667, subdivision (a)(1), and had served three separate prison terms for felonies (Pen. Code, § 667.5, subd. (b)).

After waiving his right to a jury trial, West entered a negotiated plea of guilty to one count of first degree burglary and admitted one prior strike conviction and the two serious felony enhancement allegations. West was advised of and waived his constitutional rights and was advised of and acknowledged he understood the consequences of his plea. Counsel stipulated to a factual basis for the plea. The trial court found West had knowingly, voluntarily, and intelligently waived his constitutional rights, and the court entered his guilty plea.

In accordance with the plea agreement, the trial court sentenced West to an aggregate state prison term of 22 years. The court ordered West to pay statutory fines, fees, and assessments, as well as restitution to the three burglary victims. The court awarded West 924 days of presentence custody credits and dismissed the remaining counts on the People's motion.

This court granted West’s application for relief from default for failure to file a timely notice of appeal and directed the clerk of the superior court to accept as timely the untimely notice of appeal West had attempted to file. In the notice of appeal, West checked the preprinted boxes indicating his appeal “is based on the sentence or other matters occurring after the plea that do not affect the validity of the plea,” “challenges the validity of the plea or admission” and raises “[o]ther basis for this appeal.” In his request for a certificate of probable cause, West alleged he had been unlawfully subjected to double jeopardy, his trial counsel was constitutionally ineffective, the court miscalculated his presentence custody credits, and the evidence was insufficient to support his burglary convictions. The trial court denied West’s request for a certificate of probable cause.

DISCUSSION

We appointed counsel to represent West on appeal. After reviewing the record, counsel filed an opening brief raising no issues. On January 25, 2017 we advised West he had 30 days to file a supplemental brief raising any contentions or issues he wanted us to consider. We have not received a response.

A criminal defendant who appeals following a plea of no contest or guilty without a certificate of probable cause can only challenge the denial of a motion to suppress or raise issues arising after the entry of the plea that do not affect the validity of the plea. (Pen. Code, § 1237.5; Cal. Rules of Court, rule 8.304(b)(1); see *People v. Mashburn* (2013) 222 Cal.App.4th 937, 941 [“[t]he requirements of section 1237.5 . . . must be strictly applied,” and the “Supreme Court has disapproved the practice

of applying the rule loosely in order to reach issues whose consideration would otherwise be precluded”].)

We have examined the record with respect to potential sentencing or post-plea issues that do not in substance challenge the validity of the plea. We are satisfied appellate counsel for West has fully complied with his responsibilities and there are no arguable issues. (See *Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.) In addition, the record fails to demonstrate trial counsel for West provided ineffective assistance. (See *Strickland v. Washington* (1984) 466 U.S. 668, 686 [104 S.Ct. 2052, 80 L.Ed.2d 674].)

DISPOSITION

The judgment is affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

SMALL, J.*

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