

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

THE PEOPLE,

Plaintiff and Respondent,

v.

JESSE WASHINGTON,

Defendant and Appellant.

B277070

(Los Angeles County
Super. Ct. No. YA027419)

APPEAL from an order of the Superior Court of
Los Angeles County, Steven R. Van Sicklen, Judge. Affirmed.

Stephen Borgo, under appointment by the Court of Appeal,
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On June 27, 1996, defendant and appellant Jesse Washington was convicted of first degree burglary (Pen. Code, § 459).¹ He is currently serving a 35-years-to-life Three Strikes sentence arising out of that conviction. Following the enactment of Proposition 47, Washington petitioned on July 8, 2016, for resentencing on this conviction. On August 3, 2016, the trial court denied Washington’s petition, stating that Washington’s burglary conviction rendered him ineligible for Proposition 47 relief. Washington filed a timely notice of appeal.

We appointed counsel to represent Washington on appeal. After reviewing the record, counsel filed an opening brief requesting this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441. We directed counsel to send the record on appeal and a copy of the opening brief to Washington, and notified defendant he had 30 days within which to personally submit any contentions or issues that he wished us to consider. Washington’s supplemental brief was filed on January 9, 2017.

Proposition 47, enacted by voters on November 4, 2014 and effective the following day, reduces certain drug and theft offenses to misdemeanors unless committed by ineligible defendants. (*People v. Lynall* (2015) 233 Cal.App.4th 1102, 1108.) Proposition 47 provides, in pertinent part: “(a) A person who, on November 5, 2014, was serving a sentence for a conviction . . . of a felony . . . who would have been guilty of a misdemeanor under the act . . . had this act been in effect at the time of the offense may petition for a recall of sentence . . . to request resentencing in accordance with Sections 11350, 11357,

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

or 11377 of the Health and Safety Code, or Section 459.5, 473, 476a, 490.2, 496, or 666 of the Penal Code, as those sections have been amended or added by this act.” (§ 1170.18, subd. (a).)

Washington’s conviction for the offense of burglary renders him ineligible for Proposition 47 relief because burglary is not an offense covered by section 1170.18. (See *People v. Brown* (2017) 7 Cal.App.5th 1214, 1216 [“burglary conviction (§ 459) . . . does not fall within . . . Proposition 47”]; *People v. Chen* (2016) 245 Cal.App.4th 322, 326 [“Proposition 47 made no changes to section[] 459”]; *People v. Acosta* (2015) 242 Cal.App.4th 521, 526 [“Acosta’s effort to bring attempted car burglary within the purview of Proposition 47 fails, as neither car burglary nor its attempt is mentioned in the list of statutes reduced to a misdemeanor.”].)

We are satisfied that appellate counsel has fully complied with his responsibilities and that no arguable appellate issue exists. (*Smith v. Robbins* (2000) 528 U.S. 259, 278 [120 S.Ct. 746]; *People v. Kelly* (2006) 40 Cal.4th 106, 110.)

DISPOSITION

The trial court's order is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EDMON, P. J.

We concur:

LAVIN, J.

GOSWAMI, J.*

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