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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

TROY D. CROSS,

Defendant and Appellant.

B276664

(Los Angeles County
Super. Ct. No. VA139885)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Debra Cole-Hall, Judge. Affirmed.

Sally Patrone Brajevich, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance by Plaintiff and Respondent.

An information, filed on January 20, 2016, charged appellant Troy D. Cross with first degree residential burglary (Penal Code,¹ § 459, count 1). It also alleged that appellant had one prior serious felony conviction (§ 667, subd. (a)(1)), and one prior serious or violent felony (strike) (§§ 667, subd. (d), 1170.12, subd. (b)), and that he committed the offense while on probation. Pursuant to a waiver of his trial rights and advisements as to the consequences of his plea, appellant pleaded nolo contendere to count 1, and the court accepted appellant's waivers and plea. The strike and serious felony allegations were dismissed and the trial court imposed a sentence under the terms of the plea agreement of six years (plus an agreed upon three-year concurrent term for violating his probation in case number TA132535, which he admitted). The court awarded appellant 154 days of presentence custody credits (134 actual days, plus 20 days of good time/work time) and imposed a \$300 restitution fine and a corresponding suspended parole revocation fine, a \$30 fine pursuant to Government Code, section 70373, and a \$40 fine pursuant to section 1465.8.

On August 1, 2016, appellant timely filed a notice of appeal, challenging the validity of his plea and post-plea matters. Appellant requested a certificate of probable cause on the grounds that his trial counsel mislead him as to the terms of his plea agreement. The trial court denied the request for a probable cause certificate.

We appointed counsel to represent appellant on appeal. After examining the record, counsel filed a *Wende* brief raising no issues and requesting that we independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) On November 21, 2016, we sent a

¹ All statutory references are the Penal Code unless otherwise indicated.

letter to appellant and counsel. In the letter, we directed counsel to immediately send the record in this appeal and a copy of the *Wende* brief to appellant and informed appellant that he had 30 days to submit by letter or brief any ground of appeal, contention or argument he wished us to consider. We did not receive a response from appellant.

Appellant's plea and the trial court's denial of a certificate of probable cause limit the potential scope of his appeal to "[g]rounds that arose after entry of the plea and do not affect the plea's validity" or "[t]he denial of a motion to suppress evidence under Penal Code section 1538.5." (Cal. Rules of Court, rule 8.304(b)(4); see Pen. Code, § 1237.5 [failure to obtain a certificate of probable cause precludes an appeal from the judgment of conviction upon a plea of guilty or nolo contendere].) All of the matters that appellant raised in his request for a certificate of probable cause related to his plea agreement, or occurred before he entered his plea. We have examined the entire record and have found that no issues of any sort exist, let alone issues cognizable without a certificate of probable cause.² We are satisfied that appellant's appointed counsel has fully complied with her responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109-110; *People v. Wende*, *supra*, 25 Cal.3d at p. 441.)

² Appellant did not seek appellate review of the trial court's denial of his request for a certificate of probable cause, which is reviewable only by a timely petition for a writ of mandate. (*People v. Castelan* (1995) 32 Cal.App.4th 1185, 1188.)

DISPOSITION

The judgment is affirmed.

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ROTHSCHILD, P. J.

We concur:

JOHNSON, J.

LUI, J.