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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

ANTHONY EDWARD BLAKE,

Defendant and Appellant.

B263401

(Los Angeles County  
Super. Ct. No. MA060683)

APPEAL from a judgment of the Superior Court of Los Angeles County,  
Christopher G. Estes, Judge. Affirmed.

Jenny Brandt, under appointment by the Court of Appeal, for Defendant  
and Appellant.

No appearance for Plaintiff and Respondent.

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Appellant Anthony Edward Blake appeals following revocation of probation previously granted after he pled no contest to second degree robbery. (Pen. Code, § 211.) The court sentenced appellant to prison for two years. We affirm.

***FACTUAL AND PROCEDURAL SUMMARY***

The record reflects as follows. On September 2, 2013, appellant stole merchandise from a Walmart in Los Angeles County and exited the store. A loss prevention officer confronted appellant to regain possession of the merchandise. Appellant simulated a gun behind his back and the loss prevention officer, fearing for his life, retreated. Appellant was 20 years old at the time of the offense.

Based on the above incident, the People, on September 4, 2013, filed a felony complaint alleging, inter alia, appellant committed second degree robbery and second degree commercial burglary (counts 1 & 2, respectively), and appellant pled not guilty to the charges. On September 11, 2013, appellant, pursuant to negotiations, waived his right to a preliminary hearing and, after the court advised him of the nature of the charges, his constitutional rights, and the consequences of his plea, appellant waived his constitutional rights and pled no contest to second degree robbery (count 1). He did so with the understanding, inter alia, the court would place appellant on formal felony probation and dismiss count 2. The advisements, waivers, and negotiated plea were done orally and in writing. Appellant's counsel joined in the waivers, concurred in the plea, and stipulated to a factual basis for the plea. The court accepted the plea and found appellant guilty.

On September 11, 2013, the court suspended imposition of sentence and placed appellant on formal felony probation for 36 months on the conditions, inter alia, that he obey all laws, rules, regulations, and orders of the court and probation department, that he serve time in local custody, and that he report to the probation department within 48 hours of his release from custody. Appellant accepted the conditions. The court dismissed count 2.

A probation officer later submitted to the court a probation report "regarding desertion of probationer." (Capitalization omitted.) The report reflected, inter alia, that

on October 17, 2013, the probation department mailed to appellant a letter scheduling an October 28, 2013 probation orientation appointment, but appellant never reported to the probation department. Based on the probation report, the court, on December 6, 2013, summarily revoked appellant's probation and issued a bench warrant. On January 7, 2014, appellant represented the probation report was submitted around the time he had been released from local custody, and he had not known where to report. Appellant admitted he violated probation by deserting probation and the court reinstated probation on the same terms and conditions.

On April 16, 2014, appellant's probation officer filed with the court a supplemental report reflecting, inter alia, appellant violated probation by failing to report to the probation officer after January 15, 2014. On April 16, 2014, the court summarily revoked appellant's probation and issued a bench warrant. On January 30, 2015, the court gave appellant an indicated sentence of imprisonment for the two-year lower term if he admitted the probation violation. Appellant indicated he was willing to admit the violation but wanted the court to consider reinstating probation. The court replied if appellant admitted the violation, the court would afford appellant an opportunity to argue for reinstatement but if the court denied probation, the court would sentence appellant to prison for no more than two years. Appellant accepted the indicated disposition and admitted he violated probation by failing to report to the probation department as instructed.

Appellant then personally represented the following to the court. Appellant's previous noncompliance had been foolish but he subsequently had changed considerably. Appellant had obtained employment, he was a better citizen, and if the court reinstated probation he would comply with its terms. Appellant had been employed as a "floater" at recycling centers when someone did not show up for work. Appellant was also more mature. He had been attending college but quit because, if police detained him, he would have gone to jail.

The People opposed reinstatement of probation. The People argued imprisonment for two years was appropriate given (1) the nature of the offense, (2) appellant's performance on probation and admission he violated probation, and (3) the fact appellant had a juvenile strike for a 2009 robbery that the People had not alleged. The court indicated it had reviewed the file and had considered appellant's statements, but the court did not believe the history of the case or the nature of the violation justified reinstatement of probation. The court sentenced appellant to prison for the lower term of two years on count 1, awarded presentence credit, and imposed various fines and fees.

### ***CONTENTIONS***

After examination of the record, appointed appellate counsel filed an opening brief which raised no issues and requested this court to conduct an independent review of the record. By notice resent on September 30, 2015, the clerk of this court advised appellant to submit within 30 days any contentions, grounds of appeal, or arguments he wished this court to consider. No response has been received to date.

### ***REVIEW ON APPEAL***

We have examined the entire record and are satisfied counsel has complied fully with counsel's responsibilities. (*People v. Wende* (1979) 25 Cal.3d 436, 443; *Smith v. Robbins* (2000) 528 U.S. 259, 278-284.)

***DISPOSITION***

The judgment is affirmed.

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JONES, J. \*

We concur:

EDMON, P. J.

ALDRICH, J.

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