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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.

BRIAND BERNARD WILLIAMS,

Defendant and Appellant.

B277596

Los Angeles County

Super. Ct. No. BA130843

APPEAL from an order of the Superior Court of  
Los Angeles County, James R. Dabney, Judge. Affirmed.

David M. Thompson, under appointment by the Court of  
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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## INTRODUCTION

This is an appeal from the denial of a petition for writ of error *coram nobis*.<sup>1</sup> Counsel for defendant, Briand Bernard Williams, has filed an opening brief that sets forth the statement of the case but raises no issues. (See *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). Defendant, as he is entitled to do, filed his own brief. We affirm the order.

## BACKGROUND<sup>2</sup>

By information filed May 17, 1996, defendant was charged with six counts of violating Penal Code<sup>3</sup> section 288, subdivision (c), in Los Angeles Superior Court case No. BA130843. Although the transcript of the July 16, 1996 plea hearing is no longer available, the trial court's records reflect defendant's conviction of one count for violation of section 288, subdivision (c). After defendant entered his plea, the trial court suspended imposition of sentence, placed him on formal probation for three years, and ordered him to register as a "sex offender per [section] 290 [] with local law enforcement." The

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<sup>1</sup> The trial court's denial of a petition for writ of error *coram nobis* is an appealable order. (*People v. Allenthorp* (1966) 64 Cal.2d 679, 683.)

<sup>2</sup> At defendant's request, we take judicial notice of the documents and filings from the appeal in case No. B281652. Although that appeal was dismissed, the order dismissing the appeal stated that defendant could challenge the denial of his petition for writ of error *coram nobis* in this appeal. We also take judicial notice of the unpublished opinion in *People v. Williams* (Aug. 11, 2014, B241987 [nonpub. opn.] (*Williams*)).

<sup>3</sup> All undesignated statutory references are to the Penal Code.

court also ordered defendant to pay a \$200 sex offender restitution fine pursuant to section 290.3.

At some point thereafter, defendant was charged with failing to register as a sex offender and his conviction in case No. BA130843 “formed the basis for this [new] charge.” After a court trial in March 2011, defendant was found guilty of failing to register as sex offender. (§ 290.012.) In August 2014, this division affirmed defendant’s conviction in *Williams*. In that opinion, the court specifically rejected defendant’s contention that he was not previously convicted of a sex crime requiring him to register as a sex offender. The court also held that even if defendant was not advised of the registration requirement after he was convicted in case No. BA130843, defendant was not prejudiced because he had signed notices of sex offender registration requirements in 2002, 2003, and 2009.

On April 18, 2016, defendant filed a petition for writ of error *coram nobis* to set aside his plea, judgment, and sentence in case No. BA130843.<sup>4</sup> Defendant alleged that he thought he had pled no contest to a violation of section 261.5, subdivision (c), on July 16, 1996. Defendant also alleged that the court did not tell him he would have to register as a sex offender after he entered his plea. On August 25, 2016, the trial court denied the petition but scheduled an order to show cause as to why the 1996 minute order should not be corrected to reflect a conviction for violation of section 261.5, rather than section 288, subdivision (c). On September 13, 2016, defendant filed a timely notice of appeal from the denial of the petition for writ of error *coram nobis*.

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<sup>4</sup> The petition was titled “Writ of Coram Nobis; Writ of Habeas Corpus; Non-statutory Motion to Vacate Plea.”

On December 12, 2016, the court denied defendant's request to correct the 1996 minute order. The court found that the July 16, 1996 minute order reflected that defendant pled to a violation of section 288, subdivision (c) and that defendant was to register as a sex offender. As noted, the appeal from the December 12, 2016 order was dismissed.

## DISCUSSION

After reviewing the record, defendant's counsel filed an opening brief asking this court to review the record independently pursuant to *Wende, supra*, 25 Cal.3d 436. On November 30, 2017, defendant submitted a supplemental brief. Defendant's main contention is that he pled no contest in 1996 to a violation of section 261.5 (statutory rape), not to a violation of section 288, subdivision (c) (committing a lewd act on a child). And unlike a section 288 conviction, a section 261.5 conviction does not require a defendant to register as a sex offender. (§ 290, subd. (c).) Defendant also contends that court documents showing that he pled to a violation of section 288 were forged.

"The writ of error *coram nobis* is a nonstatutory, common law remedy whose origins trace back to an era in England in which appeals and new trial motions were unknown." (*People v. Kim* (2009) 45 Cal.4th 1078, 1091, fn. omitted.) Its "purpose 'is to secure relief, where no other remedy exists, from a judgment rendered while there existed some fact which would have prevented its rendition if the trial court had known it and which, through no negligence or fault of the defendant, was not then known to the court' [citation]." (*Ibid.*)

A writ of *coram nobis* will properly issue only when the petitioner can establish three elements: (1) that some fact existed which, without his fault or negligence, was not represented to the

court at the trial and which would have prevented the rendition of the judgment; (2) that the new evidence does not go to the merits of the issues of fact determined at trial; and (3) that he did not know nor could he have, with due diligence, discovered the facts upon which he relies any sooner than the point at which he petitions for the writ. (*People v. Soriano* (1987) 194 Cal.App.3d 1470, 1474; see also *People v. Shipman* (1965) 62 Cal.2d 226, 230.) “The writ lies to correct only errors of fact as distinguished from errors of law. [Citation.]” (*People v. Sharp* (1958) 157 Cal.App.2d 205, 207.) We review a trial court’s denial of a petition for writ of error *coram nobis* for abuse of discretion. (*People v. Superior Court (Zamudio)* (2000) 23 Cal.4th 183, 192.)

The court did not abuse its discretion by denying defendant’s petition for writ of error *coram nobis*. First, defendant’s claims are, in essence, a challenge to his 1996 plea and “[i]n the absence of an allegation of state involvement, [defendant’s] allegation that counsel improperly induced him to enter a guilty plea does not state a ground for *coram nobis* relief.” (*In re Nunez* (1965) 62 Cal.2d 234, 236.) Here, there is no evidence the court or the prosecutor improperly induced defendant to enter a plea to any charge.

Second, defendant is alleging a legal mistake—he did not believe he was required to register as a sex offender. And our Supreme Court has stated that mistakes of law are not a proper basis for seeking relief through a writ of error *coram nobis*. (*People v. Banks* (1959) 53 Cal.2d 370, 378 [“The remedy does not lie to enable the court to correct errors of law.”].) That is, *coram nobis* is unavailable where a defendant, with knowledge of the facts, pleads guilty because of ignorance or mistake as to the legal effect of those facts. (See *People v. McElwee* (2005))

128 Cal.App.4th 1348, 1352 [defendant’s belief, at the time of his plea, that he would serve a certain period of time in prison was not a mistake of fact but one of law].)

Third, *coram nobis* is unavailable when a litigant has some other remedy at law. (*People v. Kim, supra*, 45 Cal.4th at p. 1094 [“ ‘In the vast majority of cases a trial followed by a motion for a new trial and an appeal affords adequate protection to those accused of crime.’ ”].) Here, defendant had another remedy—he was afforded a trial and appeal challenging the government’s contention that he was previously convicted of a sex crime requiring him to register as a sex offender.

Beyond those threshold bars to *coram nobis* relief, defendant’s claims rest on a faulty factual premise: there was no evidence he pled to a violation of section 288, or that he was not advised about the registration requirement. As discussed previously, the trial court’s records reflect defendant’s conviction of one count for violation of section 288, subdivision (c). And after defendant entered his plea, the court’s minute order states that he was to register as a “sex offender per [section] 290 [] with local law enforcement.” There is also no evidence to support defendant’s contention that these court documents were forged.

We have examined the entire record and are satisfied that no arguable issues exist, and that defendant has received adequate and effective appellate review of the order entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278.)

**DISPOSITION**

The order is affirmed.

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LAVIN, J.

WE CONCUR:

EDMON, P. J.

EGERTON, J.