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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

EDDIS DAVENPORT,

Defendant and Appellant.

B283998

(Los Angeles County  
Super. Ct. No. YA032518)

APPEAL from an order of the Superior Court of  
Los Angeles County, Mark E. Windham, Judge. Affirmed.

Leonard J. Klaif, under appointment by the Court of  
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Eddis Davenport pleaded guilty in November 1997 to one felony count of fraudulent possession of a check or money order in violation of former Penal Code section 475a (now Penal Code section 475, subd. (c)). Pursuant to a negotiated agreement the trial court sentenced Davenport to a state prison term of two years.

On March 21, 2017 Davenport, representing himself, filed an application requesting that the felony conviction be designated a misdemeanor under Proposition 47, the Safe Neighborhoods and Schools Act (Pen, Code, § 1170.18). The district attorney opposed the application on the ground the amount of loss exceeded \$950.00. The trial court denied the application, finding the conviction did not qualify as a misdemeanor under Proposition 47.

Davenport filed a timely notice of appeal, challenging the denial of his application.

We appointed counsel to represent Davenport on appeal. After examination of the record, counsel filed an opening brief in which no issues were raised. On December 20, 2017 we advised Davenport he had 30 days within which to personally submit any contentions or issues he wished us to consider. We have received no response.

We have examined the entire record and are satisfied Davenport's appellate attorney has fully complied with the responsibilities of counsel and no arguable issue exists. (*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.)

While Davenport's Proposition 47 application was pending before the trial court, the Supreme Court decided *People v.*

*Romanowski* (2017) 2 Cal.5th 903, placing the burden on the defendant to prove valuation when necessary to obtain Proposition 47 relief. The record on appeal does not indicate that any evidence of the value of the forged instrument was before the trial court. Accordingly, although in denying the application the court may have incorrectly stated the value of the forged instrument exceeded \$950.00, Davenport failed to carry his burden to establish his entitlement to relief. The application was properly denied.

### **DISPOSITION**

The order is affirmed.

PERLUSS, P. J.

We concur:

ZELON, J.

BENSINGER, 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.