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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT LEE CARROLL,
Defendant and Appellant.

2d Crim. No. B277439
(Super. Ct. No. 16F-01503)
(San Luis Obispo County)

Robert Lee Carroll appeals his conviction by jury of petty theft with prior theft related convictions. (Pen. Code, §§ 484, subd. (a), 666, subd. (a).)¹ In a bifurcated proceeding, the trial court found that appellant had suffered four prior prison terms within the meaning of section 667.5, subdivision (b). Appellant was sentenced to four years state prison and ordered to pay a \$300 restitution fine (§ 1202.4, subd. (b)), a \$300 parole restitution fine (§ 1202.45), a \$40 court security fee (§ 1465.8,

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

subd. (a)(1)), and a \$30 criminal conviction assessment (Gov. Code, § 70373).

The evidence shows that a Costco loss prevention officer saw appellant put on a men's Calvin Klein jacket, walk through the store past the cash registers with the jacket, and enter the restroom where a "No Merchandise Allowed" sign was posted. The jacket had a price tag attached under the left armpit with a lanyard attached to it. Appellant left the restroom and was detained 30 feet outside the store entrance wearing the jacket. As appellant was escorted to the manager's officer, appellant asked if he could pay for the merchandise. The price tag was in the right jacket pocket.

We appointed counsel to represent appellant in this appeal. After examination of the record, counsel filed an opening brief in which no issues were raised.

On February 6, 2017, we advised appellant that he had 30 days in which to personally submit any contentions that he wished to raise on appeal. On March 8, 2017 and March 10, 2017, appellant submitted letter briefs stating, among other things, that he was denied the opportunity to present character witness testimony, that he was denied effective assistance of trial counsel, and that the trial court erred in denying his *Marsden* motion (*People v. Marsden* (1970) 2 Cal.3d 118) and request for an investigator. These contentions are not supported by the record. (*Strickland v. Washington* (1984) 466 U.S. 668, 694; *People v. Bolin* (1998) 18 Cal.4th 297, 333.) Appellant has failed to show that he was denied a fair trial (*Untied States v. Bagley* (1985) 473 U.S. 667, 678; *People v. Fudge* (1994) 7 Cal.4th 1075, 1102-1103) or that, but for the alleged errors it is reasonably probable that appellant would have obtained a more favorable

result. (See, e.g., *People v. Fairbank* (1997) 16 Cal.4th 1223, 1241-1242.)

We have reviewed the entire record and are satisfied that appellant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 443; *People v. Kelly* (2006) 40 Cal.4th 106, 126.)²

The judgment is affirmed.

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YEGAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

² Appellant has filed a petition for writ of habeas corpus (B281187) alleging the same ineffective assistance of counsel claims. In a separate order, filed concurrently with this opinion, we have denied the petition for writ of habeas corpus.

Donald G. Umhofer, Judge

Superior Court County of San Luis Obispo

Will Tomlinson, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance by Respondent.