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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.

NICK JULIAN HERRAN,

Defendant and Appellant.

B276019

(Los Angeles County
Super. Ct. No. MA065101)

APPEAL from an order of the Superior Court of Los Angeles County, Daviann L. Mitchell, Judge. Affirmed.

Tracy L. Emblem, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On April 3, 2015, Nick Julian Herran waived his constitutional rights to a jury trial, pleaded no contest to one count of mayhem (Pen. Code, § 203) and admitted the special allegation he had personally used a deadly weapon in committing the offense (Pen. Code, § 12022, subd. (b)(1)) as charged in the amended information.

At the time he entered his plea, Herran was advised of his constitutional rights and the nature and consequences of the plea, which he stated he understood. Herran's counsel joined in the waivers of his constitutional rights. The trial court expressly found Herran's waivers and plea were voluntary, knowing and intelligent.

The court sentenced Herran in accordance with the negotiated plea agreement to a nine-year state prison term, consisting of the upper eight-year term for mayhem plus one-year for the weapon use enhancement. The court then stayed execution of sentence and placed Herran on five years of formal probation on condition he serve 180 days in county jail with credit for time served, and that he report to his probation officer, abstain from using alcohol, undergo alcohol counseling and submit to alcohol testing. The court dismissed the remaining counts pursuant to the plea agreement. The court ordered Herran to pay statutory fines, fees and assessments.

On March 17, 2016, the trial court summarily revoked Herran's probation and remanded him into custody, after Herran's probation officer reported Herran was in violation of probation.

Following a probation revocation hearing on May 27, 2016, at which Herran's probation officer testified, the trial court found

Herran in violation of probation for having: consumed alcohol on two occasions; tested positive for alcohol consumption; failed to cooperate with alcohol counseling; and failed to report to his probation officer. The court revoked and terminated probation and ordered executed the previously stayed nine-year state prison sentence. The court awarded Herran 262 days of presentence custody credits.

Herran filed a timely notice of appeal. We appointed counsel to represent Herran on appeal. After examination of the record counsel filed an opening brief in which no issues were raised. On January 9, 2017, we advised Herran 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 Herran'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.)

DISPOSITION

The order is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.