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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JEREMIAH LEE WILKERSON,

Defendant and Appellant.

B294630

(Los Angeles County
Super. Ct. No. MA073314)

THE COURT:

Defendant and appellant Jeremiah Lee Wilkerson (defendant) appeals his judgment of conviction of resisting an executive officer, entered upon a plea of no contest. His appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues. On June 3, 2019, we notified defendant of his counsel's brief and gave him leave to file, within 30 days, his own brief or letter stating any grounds or argument he might wish to have considered. That time has elapsed, and defendant has submitted no brief or letter. We have

reviewed the entire record, and finding no arguable issues, affirm the judgment.

At defendant's preliminary hearing, Los Angeles County Sheriff's Deputy Logan Foley testified that he and Deputy Robert Garay were having a discussion with a possible suspect while standing in front of a residence in Lancaster. Shortly after ruling the man out as a suspect, the deputies noticed defendant walking nearby holding a tire iron, and asked him to put the tire iron down. Defendant complied, but then walked toward the deputies with his hands in his pockets. Deputy Foley asked him to take his hands out of his pockets, and Deputy Garay asked him whether he was on probation or parole. Defendant took his hands from his pockets and stated that he was on parole, whereupon Deputy Garay conducted a parole compliance search and found methamphetamine in defendant's pocket. The deputies attempted to detain defendant, who struggled, trying to break their hold on him by lifting his hand and spinning around. At one point defendant knocked Deputy Garay back about two feet. As the deputies attempted to put defendant onto the ground and in handcuffs, defendant resisted, bit Deputy Foley on his finger, and struck him in the face with loose handcuffs. During the struggle both deputies punched defendant in the face before Deputy Foley was able to put defendant in a carotid restraint and handcuff him. Defendant continued to kick, so the deputies put him in a hobble restraint and held him on the ground until backup arrived.

Defendant was charged by information, as follows: count 1, assault upon a peace officer in violation of Penal Code section

245,¹ subdivision (c); count 2, resisting an executive officer in violation of section 69; and count 3, possession of a controlled substance, a misdemeanor, in violation of Health and Safety Code section 11377. It was also alleged that defendant had suffered two prior serious or violent felonies (within the provisions of §§ 667, subd. (b)-(i) & 1170.12 [the Three Strikes law] and § 667, subd. (a)(1)) and that defendant had served three prior prison terms (within the meaning of § 667.5, subd. (b)).

After the trial court granted defendant's motion for discovery pursuant to *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, the court held an in camera hearing during which it found nothing discoverable. The trial court denied defendant's pretrial motion for substitute counsel after conducting a *Marsden* hearing.² Defendant later retained private counsel, and entered a plea of no contest to resisting an executive officer, (count 2), and admitted a prior strike conviction. All remaining charges and allegations were dismissed.

On October 29, 2018, the trial court sentenced defendant pursuant to a plea agreement to a term of four years in prison, comprised of the middle term of two years, doubled due to the prior strike conviction. The court imposed a \$1,200 victim restitution fine, as well as a \$40 court security fee and a \$30 facility assessment fine. Defendant was given 243 actual days of presentence custody credit and 242 days of conduct credit, for a total of 485 days.

¹ All further statutory references are to the Penal Code, unless otherwise indicated.

² *People v. Marsden* (1970) 2 Cal.3d 1187.

Defendant filed a timely notice of appeal and obtained a certificate of probable cause to appeal based upon the validity of the plea and an allegation of ineffective assistance of counsel.

We have examined the entire record, including the sealed transcripts of in camera hearings. We are satisfied that defendant's appellate counsel has fully complied with her responsibilities and that no arguable issue exists. We conclude that defendant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

The judgment is affirmed.

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LUI, P.J.

ASHMANN-GERST, J.

CHAVEZ, J.