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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

MAHEALANI

LEIALOHAKALA AUSTIN,

Defendant and Appellant.

B282537

(Los Angeles County  
Super. Ct. No. MA062046)

APPEAL from a judgment of the Superior Court of  
Los Angeles County, Charles Chung, Judge. Affirmed.

Michele A. Douglass, under appointment by the Court of  
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Appellant Mahealani Leialohakala Austin and two codefendants used a gun to steal money from several Antelope Valley pharmacies and pizza restaurants during 2011 and 2012. A 31-count information filed July 17, 2014 charged the trio with numerous counts of second degree robbery and kidnapping to commit robbery, as well as other related offenses, including conspiracy to commit robbery and making criminal threats, plus firearm enhancements. All three defendants faced life in prison due to the aggravated kidnapping charges, which the court declined to dismiss pursuant to defendants' section 995 motions.

Pursuant to a plea agreement, appellant pled no contest to one interlineated count of kidnapping (Pen. Code, § 207, subd. (a)),<sup>1</sup> three counts of robbery (§ 211), one count of attempted robbery (§§ 211 & 664), and one count of conspiracy to commit robbery (§§ 182, subd. (a) & 211). He also admitted section 12022.53, subdivision (b) allegations as to each count. In exchange, he was sentenced to a term of 35 years, calculated as follows: the high term of eight years on the kidnapping count, plus an additional 10 years for the related firearm enhancement; one year—one-third the midterm—on each of the three robbery counts, plus three years, four months—one-third the midterm—on each of the related firearm enhancements; eight months—one-third the midterm—on the attempted robbery, plus three years, four months—one-third the midterm—on the related firearm enhancement; and the mid-term of three years on the conspiracy count, to run concurrent to all of the other charges. The court also assessed various fines and fees, and awarded appellant a

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

total of 224 days of custody credit.<sup>2</sup>

Appellant timely appealed, indicating a desire to challenge the voluntariness of his plea, the adequacy of his counsel, the representations counsel made regarding the plea and his ability to challenge the denial of his section 995 motion, the denial of his right to self-representation, and the constitutionality of his sentence. The trial court granted appellant's request for a certificate of probable cause.

After reviewing the record, appellant's court-appointed counsel filed an opening brief requesting this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). On September 28, 2017, we sent a letter to appellant's last known address, advising him that he had 30 days within which to submit by brief or letter any contentions or argument he wished this court to consider. We received no response.

This court has examined the entire record, and is satisfied no arguable issues exist. There is no suggestion in the record that appellant ever expressed any desire to represent himself. The record indicates that appellant's attorney made extraordinary efforts to negotiate the agreed sentence down to 35 years from the prosecution's final offer of 60 years. Appellant then discussed the proposed plea agreement with his attorney for approximately two hours. The court also permitted appellant to speak with his mother and a family friend during that time. The court explained to appellant, who it noted, had been assaulted in custody, that it would order protective custody for him to the extent it could, and also would recommend fire camp.

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<sup>2</sup> Pursuant to his plea agreement, appellant waived all custody credits accrued prior to the entry of his plea.

During the plea colloquy, the court advised appellant that he would be pleading to six violent felonies, and that his plea could have collateral consequences relating to immigration, future sentencing, and appellant's eligibility to earn good time/work time custody credits. Appellant verbally indicated his understanding of these admonishments, and further told the court that he was pleading freely and voluntarily and was not acting under threat or pursuant to any outside promises. The agreed 35-year sentence, which was substantially less than the life terms appellant faced, was not "so disproportionate to the crime for which it [was] inflicted that it shocks the conscience and offends fundamental notions of human dignity." (*In re Lynch* (1972) 8 Cal.3d 410, 424.)

We are satisfied that appellant 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, 112-113.)

#### **DISPOSITION**

The judgment is affirmed.

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COLLINS, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.