Filed 2/14/17 P. v. Mouton CA2/4

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE, Plaintiff and Respondent, v. MATTHEW LUCIFER MOUTON, Defendant and Appellant.	B275546 (Los Angeles County Super. Ct. No.KA110049)

APPEAL from a judgment of the Superior Court of Los Angeles County, Salvatore T. Sirna, Judge. Affirmed.

David R. Greifinger, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On June 30, 2015, appellant Matthew Lucifer Mouton forcibly grabbed a backpack from victim Chas S.'s hand and ran off with the backpack and a shopping cart containing the victim's belongings. Appellant later returned the backpack, covered in shaving cream and emptied of the victim's prescription medications and approximately $100 in cash. Police officers ultimately reunited the victim with his remaining belongings, which were also covered in shaving cream.

Appellant was charged with second degree robbery (Pen. Code, § 212.5, subd. (c)), a felony.[1] The information also alleged that appellant suffered a prior "strike" conviction within the meaning of the Three Strikes law (§§ 667, subds. (b)-(j), 1170.12) and suffered four prison priors (§ 667.5, subd. (b)).

Appellant pled no contest to the robbery charge and admitted the strike in exchange for a sentence of six years in state prison. The trial court sentenced appellant to six years in state prison the same day, October 20, 2015.

On May 13, 2016, appellant filed a pro per petition to recall his sentence and for resentencing pursuant to Proposition 47, the Safe Neighborhoods and Schools Act (§ 1170.18, subd. (a)). Appellant alleged that his offense qualified for resentencing because the items he stole were valued at $950 or less.

The trial court held a hearing on June 2, 2016. It denied the petition, finding that appellant's conviction did not qualify for resentencing under Proposition 47.

Appellant timely filed a notice of appeal from the June 2, 2016 order denying his petition. We appointed counsel to represent him. After reviewing the record, counsel filed an

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[1] All further statutory references are to the Penal Code unless otherwise specified.

opening brief requesting this court independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441. On October 25, 2016, we directed counsel to send the appellate record and a copy of the opening brief to appellant. We also notified appellant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. We have received no response from him.

We have examined the entire record and are satisfied that appellant's counsel has fully complied with his responsibilities and that no arguable appellate issue exists. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 110.) Regardless of the value of the items stolen, robbery is not a crime reducible to a misdemeanor under Proposition 47. (See §§ 211, 213, subds. (a)(2), (b), 1170.18, subd. (a).)

DISPOSITION

The judgment of the trial court is affirmed.

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COLLINS, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.