

Filed 8/7/17 P. v. Willis CA2/1

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

TYLER HOWLAND WILLIS,

Defendant and Appellant.

B280358

(Super. Ct. L.A. County
No. 5PH06949)

APPEAL from an order of the Superior Court of
Los Angeles County, Jacqueline H. Lewis, Judge. Affirmed.

Richard B. Lennon, under appointment by the Court of
Appeal, for Defendant and Appellant Tyler Howland Willis.

No appearance for Plaintiff and Respondent.

Defendant and appellant Tyler Howland Willis appeals from a December 27, 2016 order issued by the superior court, after our remand, re-imposing a custody period of 180 days for a violation of his parole conditions. We affirm.

FACTUAL AND PROCEDURAL SUMMARY

In October 2009, Willis was convicted of a lewd and lascivious act upon a child under the age of 14. (Pen. Code, § 288, subd. (a).)¹ He was released in March 2012, subject to parole supervision by the Department of Corrections and Rehabilitation (DCR), and required to wear a global positioning system (GPS) device.

On September 2, 2015, the DCR filed a petition to revoke Willis's parole on the grounds that: (1) without his parole officer's permission, he had entered a park where children play; and (2) he resisted arrest. The parties stipulated to a unitary hearing for determining probable cause and the merits of the petition.

After hearing argument, the court found that Willis “‘violated the terms and conditions of supervision by being present in a prohibited area and resisting arrest.’ The court then revoked Willis's parole and restored parole on the same terms and conditions provided that he be incarcerated in county jail for 180 days.” Willis appealed. We affirmed the finding with respect to resisting arrest, but reversed the court's finding that Willis was present in a prohibited area. We remanded to the superior court to determine the appropriate response to the remaining finding.

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

On remand, the superior court re-imposed a penalty of 180 days of custody, concluding that “the supervised person’s violation history at the time of the violation hearing would have warranted a 180 day sentence” with or without the allegation of being present in a prohibited area.

Willis appealed, and we appointed counsel to represent him. Counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, raising no issues on appeal and requesting that we independently review the record to determine if the lower court committed any error. Because Willis is a transient, his counsel was unable to contact him to advise him of the filing of a *Wende* brief and his opportunity to file his own supplemental brief and to request other counsel be appointed on his behalf. We have received no communication from Willis.

DISCUSSION

When an inmate is released from prison subject to parole supervision under section 3000.08, a court may revoke that person’s parole and order confinement in county jail for up to 180 days “[u]pon a finding that the person has violated the conditions of parole.” (§ 3000.08, subds. (f) & (g).) The trial court may make that finding based on a preponderance of the evidence. (*People v. Rodriguez* (1990) 51 Cal.3d 437, 447.)

We review the court’s findings for substantial evidence. (*People v. Urke* (2011) 197 Cal.App.4th 766, 773.) As we stated in our prior opinion, the court’s finding on the second ground is sufficient to support the court’s order revoking Willis’s parole supervision. (§ 3000.08, subd. (f).) Willis raises no issues to counter this finding. We are satisfied that Willis’s counsel has fully complied with his responsibilities and that no arguable appellate issue exists. (*People v. Wende, supra*, 25 Cal.3d at p. 441; *People v. Kelly* (2006) 40 Cal.4th 106, 110.)

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

CHANEY, J.

LUI, J.