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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.

MARVIN LEO VITAL, JR.,

Defendant and Appellant.

B276175

(Los Angeles County
Super. Ct. No. BA427767)

APPEAL from a judgment of the Superior Court of Los Angeles County, Frederick N. Wapner, Judge. Affirmed.

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

No appearance for Plaintiff and Respondent.

Marvin Leo Vital, Jr., was charged in an information with one count of custodial possession of a weapon (Pen. Code, § 4502, subd. (a)). Vital pleaded not guilty and the matter proceeded to jury trial.

According to the evidence presented a trial, in July 2014, Vital occupied a four-bed cell at the Los Angeles County Jail. On July 3, 2014, Los Angeles County Sheriff Deputy Nicholas Baray found a sharpened piece of plastic, capable of being used as a weapon or shank, hidden inside a wrist brace among other items that were on top of Vital's bed. After Deputy Baray advised Vital of his right to remain silent, to the presence of an attorney and, if indigent, to appointed counsel (*Miranda v. Arizona* (1966) 384 U.S. 436 [86 S.Ct. 1602, 16 L.Ed.2d 694]), Vital admitted the wrist brace belonged to him and he had been given the plastic shank.

The jury convicted Vital as charged. The trial court sentenced Vital to the middle term of three years for custodial possession of a weapon and imposed statutory fines, fees and assessments. The court also awarded Vital 1,425 days of presentence custody credits.

We appointed counsel to represent Vital on appeal. After an examination of the record, counsel filed an opening brief in which no issues were raised. On December 1, 2016, we advised Vital he had 30 days in which to personally submit any

contentions or issues he wished us to consider. We have received no response.

We have examined the record and are satisfied Vital'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 judgment is affirmed.

SMALL, J.*

We concur:

ZELON, Acting P.J.

SEGAL, J.

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.