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REPORTS**

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IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

PEOPLE,

Plaintiff and Respondent,

v.

JEFFREY L. JOHNSON,

Defendant and Appellant.

B269396

(Los Angeles County
Super. Ct. Nos. A768156,
BA040283)

APPEAL from an order of the Superior Court of Los Angeles County, David Horwitz, Judge. Affirmed.

Stephen M. Vasil, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

This is a *Wende*¹ appeal from an order denying appellant's petitions for recall of sentence and resentencing under Proposition 47, the Safe Neighborhoods and Schools Act (Pen. Code, § 1170.18).² For the reasons that follow, the order is affirmed.

In 1985, appellant Jeffrey L. Johnson was convicted of a violation of Health and Safety Code section 11351,³ possession or purchase for sale of a controlled substance, a felony. (A768156.)

¹ *People v. Wende* (1979) 25 Cal.3d 436, 441.

² Penal Code section 1170.18, subdivision (a) provides: "A person currently serving a sentence for a conviction, whether by trial or plea, of a felony or felonies who would have been guilty of a misdemeanor under the act that added this section ('this act') had this act been in effect at the time of the offense may petition for a recall of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing in accordance with Sections 11350, 11357, or 11377 of the Health and Safety Code, or Section 459.5, 473, 476a, 490.2, 496, or 666 of the Penal Code, as those sections have been amended or added by this act."

³ Health and Safety Code section 11351 provides: "Except as otherwise provided in this division, every person who possesses for sale or purchases for purposes of sale (1) any controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years."

In 1991, he sustained a second conviction under the same statute, also a felony. (BA040283)

On November 3, 2015, appellant filed a petition in each case for recall of sentence and resentencing under Proposition 47. The petitions were denied on the ground that Proposition 47 does not apply to violations of Health and Safety Code section 11351. (*People v. Rivera* (2015) 233 Cal.App.4th 1085, 1091, fn. 1.) Appellant filed a timely notice of appeal from the order of denial. His appointed counsel filed a *Wende* brief that raised no issues. On July 28, 2016, we directed counsel to send the record on appeal and a copy of the opening brief to appellant. On that date, 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.)

DISPOSITION

The order is affirmed.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

COLLINS, J.