

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

SAMUEL TONY EDWARDS,

Defendant and Appellant.

B278750

(Los Angeles County
Super. Ct. No. GA099395)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Cathryn F. Brougham, Judge. Affirmed.

Marta I. Stanton, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Samuel Tony Edwards waived
preliminary hearing and pleaded no contest to unlawful

possession of a firearm and ammunition. He appeals from the judgment. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In August 2016, Edwards was on probation for robbery. Edwards and his two brothers, Anthony and Jordan Edwards,¹ lived with their grandfather.² The grandfather owned a gun which he kept in his bedroom, under some mattresses. The grandfather testified at a preliminary hearing that he always locked his bedroom door. According to the police report, when the gun was discovered in the house, Edwards was asleep in the bedroom adjacent to his grandfather's. He and his brothers admitted they knew of the gun's presence.³

In a felony complaint, the People charged Edwards with possession of a firearm by a violent felon (Pen. Code, § 29900, subd. (a)(1))⁴ and unlawful possession of ammunition (§ 30305, subd. (a)(1)). The complaint also alleged he had a prior conviction for robbery, a violent felony. Anthony and Jordan were also each charged with possession of a firearm by a felon (§ 29800,

¹ For ease of reference, and with no disrespect, we hereinafter refer to Edwards's brothers by their first names.

² The trial court presided over the preliminary hearing or hearings for one or both of the codefendants, and it described the evidence at Edwards's plea hearing. We glean the facts primarily from the trial court's description.

³ The police report has not been made a part of the record on appeal. We rely on the parties' and the court's statements regarding its contents.

⁴ All further undesignated statutory references are to the Penal Code.

subd. (a)(1)) and unlawful possession of ammunition (§ 30305, subd. (a)(1)). Anthony and Jordan were additionally charged with violation of a criminal street gang injunction. (§ 166, subd. (a)(9).) According to the trial court, Edwards's brothers were held to answer after a preliminary hearing.

On August 24, 2016, Edwards pleaded not guilty. He requested to be released on his own recognizance because he was attending college, was doing well in school, was on the football team, and was hoping to obtain a football scholarship. Defense counsel acknowledged that a firearm belonging to the grandfather was in the house, in the grandfather's locked room. In denying bail on the probation case, the court stated: "I do know the facts of the case and I know he had access to that gun." The court set the matter for a preliminary hearing and scheduled a probation violation hearing.

On August 29, 2016, Edwards entered an open plea of no contest to being a violent felon in possession of a firearm and unlawful possession of ammunition (§§ 29900, subd. (a)(1), 30305, subd. (a)(1)) pursuant to *People v. West* (1970) 3 Cal.3d 595. He also admitted suffering the prior robbery conviction. Before entering his plea, Edwards was advised of, and waived, his rights to a preliminary hearing; to a jury or court trial; to confront, cross-examine, and subpoena witnesses; to present a defense; and to remain silent. He was advised of the nature of the charges against him, the possible consequences of a plea of guilty or no contest, including the maximum penalty, and the potential immigration consequences. He affirmed that he understood the charges against him, had had an adequate opportunity to discuss the facts of his case and any legal consequences with his attorney, was entering the plea freely and

voluntarily, and no promises or threats had been made to induce him to plead. Edwards also admitted violating probation. The court found Edwards's waiver of his rights was knowingly, intelligently, and voluntarily made.

Defense counsel and the People stipulated to a factual basis for the plea based upon the police report and the complaint. The court also found there was a factual basis for the plea. It observed that the preliminary hearing standard was "a different standard than beyond a reasonable doubt. I think it is a tough case for the People to prove constructive possession. I think enough for [the] preliminary hearing. I think [the] People would have a tough time potentially getting a conviction at [a] jury trial." The court noted, however, that Edwards "did have potentially constructive access to [the gun]. So, there is a factual basis."

The court placed Edwards on formal probation for five years on condition he serve 26 days in jail, with credit for 26 days served. It imposed a restitution fine, a suspended probation revocation restitution fine, a court operations assessment, and a criminal conviction assessment.

Edwards thereafter obtained a certificate of probable cause on the ground that his brother Anthony's case was "the same as the facts and evidence in" his case, but had been dismissed after a section 995 motion was granted. Edwards filed a timely notice of appeal.

DISCUSSION

After review of the record, appellant's court-appointed counsel filed an opening brief that raised no issues, and requested that this court conduct an independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441.

We advised appellant that he had 30 days to submit by brief or letter any contentions or argument he wished this court to consider. We have received no response.

We have examined the entire record and are satisfied no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 126; *People v. Wende, supra*, 25 Cal.3d at pp. 441-442.)

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BACHNER, J.*

We concur:

EDMON, P. J.

LAVIN, J.

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