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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.

ALVIN WILEY,

Defendant and Appellant.

B275780

(Los Angeles County
Super. Ct. No. BA440884)

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

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

No appearance for Plaintiff and Respondent.

Representing himself, Alvin Wiley petitioned on May 16, 2016 to recall his current felony sentence for possession of heroin for sale and for resentencing as a misdemeanor under Proposition 47, the Safe Neighborhoods and Schools Act (Pen. Code, § 1170.18). The trial court denied the petition on May 31, 2016, finding Wiley's conviction was for an offense that does not qualify for resentencing to a misdemeanor under Proposition 47. Wiley filed a timely notice of appeal.

We appointed counsel to represent Wiley on appeal. After an examination of the record, counsel filed an opening brief in which no issues were raised. On November 21, 2016, we advised Wiley 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 Wiley'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.) The trial court correctly ruled that possession of heroin for sale is not one of the drug offenses for which a defendant may seek reclassification or resentencing pursuant to Penal Code section 1170.18, subdivision (a).

DISPOSITION

The order 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.