

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

RAMON ARMIJO,

Defendant and Appellant.

B295737

(Los Angeles County
Super. Ct. No. TA132994)

APPEAL from an order of the Superior Court of Los Angeles County, Sean D. Coen, Judge. Affirmed.

James Koester, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

This case arises out of a 2014 incident in which Ramon Armijo allegedly stabbed a man with “a bayonet type knife.” Armijo was charged in an amended information with attempted willful, deliberate, and premeditated murder (Pen. Code,¹ §§ 187, subd. (a), 664), with special allegations he had personally used a deadly or dangerous weapon (§ 12022, subd. (b)) and inflicted great bodily injury in committing the offense (§ 12022.7, subd. (a)). (*People v. Armijo* (2017) 10 Cal.App.5th 1171, 1174, 1177 (*Armijo I*)). The information also specially alleged Armijo had suffered one prior serious or violent felony conviction within the meaning of the three strikes law (§§ 667, subds. (b)-(j), 1170.12), which was a serious felony within the meaning of section 667, subdivision (a)(1). (*Armijo I*, at p. 1174.)

In 2015 Armijo entered a negotiated plea of no contest to attempted murder and admitted the great bodily injury and prior strike allegations. In accordance with the plea agreement, the trial court sentenced him to a 13-year prison term, consisting of the lower term for attempted murder of five years, doubled under the three strikes law, plus three years for the great bodily injury enhancement. (*Armijo I*, *supra*, 10 Cal.App.5th at p. 1177.) The court dismissed the remaining special allegations. (*Ibid.*)

Armijo appealed, arguing the trial court prejudicially erred in failing to hold a hearing pursuant to *People v. Marsden* (1970) 3 Cal.3d 118. We conditionally reversed the judgment and remanded to the trial court with instructions to hold a *Marsden* hearing. (*Armijo I*, *supra*, 10 Cal.App.5th at p. 1174.) On remand, the trial court denied Armijo’s motion to replace appointed counsel, and it reinstated the judgment. Armijo again

¹ Further statutory references are to the Penal Code.

appealed, arguing the trial court abused its discretion in denying his *Marsden* motion. We concluded there was no abuse of discretion and affirmed the judgment. (*People v. Armijo* (June 3, 2019, B286698) [nonpub. opn].)

While his second appeal was pending, Armijo filed as a self-represented litigant a motion requesting the superior court reconsider his sentence and exercise its discretion under Senate Bill No. 1393 (2017-2018 Reg. Sess.) to strike the section 667, subdivision (a)(1), prior serious felony enhancement. The superior court denied the motion on January 28, 2019.

Armijo timely appealed.

DISCUSSION

We appointed counsel to represent Armijo on appeal. After reviewing the record, counsel filed a brief raising no issues. On August 16, 2019 we notified Armijo he had 30 days to submit a brief or letter raising any grounds of appeal, contentions, or arguments he wanted the court to consider. On September 27, 2019 we received a nine-page handwritten supplemental brief in which Armijo argued the superior court erred in denying his request for relief under Senate Bill No. 1393 (2017-2018 Reg. Sess.).

Senate Bill No. 1393 (2017-2018 Reg. Sess.) amended sections 667 and 1385, effective January 1, 2019, to provide trial courts discretion to strike a five-year sentence enhancement imposed under section 667, subdivision (a). Because the trial court dismissed the five-year sentence enhancement under section 667, subdivision (a)(1), as part of Armijo's negotiated plea, Senate Bill No. 1393 does not apply in this case. We have

examined the entire record and are satisfied Armijo'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; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.)

DISPOSITON

The order is affirmed.

FEUER, J.

We concur:

ZELON, Acting P. J.

SEGAL, J.