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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

STEVEN SEDILLO,

Defendant and Appellant.

B288102

(Los Angeles County
Super. Ct. No. BA457291)

THE COURT:

Steven Sedillo (defendant) appeals from a judgment sentencing him to two years of unsupervised probation after he pled no contest to one count of brandishing a weapon other than a firearm, a misdemeanor offense. We affirm.

BACKGROUND

On the morning of May 11, 2017, defendant approached several customers at a gas station asking for money. When the customers did not respond, defendant became aggressive, spitting

on one person's car and kicking another's. Familiar with defendant because he regularly hassled customers, a gas station employee offered defendant one dollar and asked him to leave; defendant cursed at the employee and refused. The employee pushed defendant and again asked him to leave. Defendant pulled out a "regular kitchen knife" with a four- to five-inch blade, raised it beside his head—blade facing out—and began chasing the employee. The employee ran inside and called police; defendant was arrested.

The People charged defendant with assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1))¹ plus various enhancement allegations including that defendant had three prior strike convictions within the meaning of our "Three Strikes" law (§§ 667, subds. (b)-(j), 1170.12, subds. (a)-(d)), and that he committed the alleged assault with a deadly weapon, a "serious" felony (§ 1192.7, subd. (c)), while on parole from state prison, making him ineligible for probation (§ 1203.085, subd. (b)).

In July 2017, defendant made an oral motion to have his court-appointed attorney removed under *People v. Marsden* (1970) 2 Cal.3d 118. After conducting an in camera hearing, the trial court denied defendant's request. In September 2017, defendant submitted a written waiver of his right to counsel, electing to represent himself under *Faretta v. California* (1975) 422 U.S. 806. In December 2017, defendant, who had since revoked his request to represent himself and been appointed a new attorney, made a second oral *Marsden* motion, seeking to have his second attorney replaced. The trial court conducted an in camera hearing and then continued the hearing in order to

¹ All further statutory references are to the Penal Code unless otherwise indicated.

review defendant's written *Marsden* motion. A few days later, defendant indicated his desire to withdraw his *Marsden* motion and accept a plea offer.

Pursuant to a plea negotiation, the People amended the information to add a count of brandishing a deadly weapon other than a firearm, a misdemeanor offense. (§ 417, subd. (a)). The trial court advised defendant of his constitutional rights and the nature of the charge against him, and defendant stated that he discussed his rights with his attorney, understood them, and waived them. Defendant's attorney joined the waiver. The court then accepted defendant's no contest plea, finding it to be "knowing[], intelligent[], and voluntar[y]."

The trial court sentenced defendant to two years of unsupervised probation, with standard terms and conditions, including 120 days in county jail with credit for time served. The court then dismissed the felony assault with a deadly weapon charge. Less than one week later, defendant's probation was terminated "pursuant to disposition" of a separate, unrelated case.

Defendant filed a timely notice of appeal from the judgment challenging (1) the validity of his plea on the ground that "[t]he terms of [his] plea admission w[ere] changed at sentenc[ing]," and (2) his sentence on the ground that he "could not hear because [he is] almost deaf." The trial court denied his request for a certificate of probable cause.

DISCUSSION

Defendant's court-appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues on appeal. On June 4, 2018, we notified defendant of his counsel's brief and gave him leave to file, within 30 days, his own

brief or letter stating any grounds or argument he might wish to have considered. Defendant filed a letter brief on June 25, 2018.

Because defendant entered a guilty plea and did not obtain a certificate of probable cause, we may only entertain an appeal based on (1) “[g]rounds that arose after entry of the plea and do not affect the plea’s validity,” or (2) “[t]he denial of a motion to suppress evidence under . . . section 1538.5.” (*People v. Maultsby* (2012) 53 Cal.4th 296, 299, fn. 2.) The issues identified by defendant fall outside this permissible scope of appeal, and we must apply the probable cause requirements strictly. (*People v. Panizzon* (1996) 13 Cal.4th 68, 89, fn. 15 [“the purposes behind section 1237.5 will remain vital only if appellate courts insist on compliance with its procedures”].) In any event, any concerns defendant had with his sentence are mooted by the fact that his probation in this case was terminated just days after sentencing through resolution of a separate case.

We have independently examined the entire record and are satisfied that defendant’s attorney has fully complied with his responsibilities, and that no arguable issues exist. We conclude that defendant has, by virtue of counsel’s compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

The judgment is affirmed.

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LUI, P. J.,

CHAVEZ, J.,

HOFFSTADT, J.