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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

MYTCHELL MORA,

Defendant and Appellant.

B285278

(Los Angeles County
Super. Ct. No. MA066814)

APPEAL from a Judgment of the Superior Court of Los Angeles County. Joel L. Lofton, Judge. Affirmed.

A. William Bartz, Jr., under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Appellant Mytchell Mora was convicted of two counts of felony stalking (Pen. Code, § 646.9, subd. (a).)¹ Appellant filed a pro. per. petition in the trial court seeking to have his offenses reduced to wobblers, and to obtain resentencing on both counts as misdemeanors. He appeals the denial of his petition. Appellant’s counsel on appeal filed a *Wende* brief (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)) requesting that we conduct an independent review of the record. We have reviewed the record and conclude that no arguable issues exist. Accordingly, we affirm.

PROCEDURAL HISTORY

The information filed May 23, 2016, charged defendant with two counts of felony stalking pursuant to section 646.9, subdivision (a). On December 1, 2016, the jury found defendant guilty of both counts.

The factual background of this case is set forth in our unpublished opinion in *People v. Mora* (May 17, 2018, B280345, nonpub. opn.) where we affirmed defendant’s conviction for two counts of stalking. (§ 646.9, subd. (a).) On both counts, the court suspended imposition of sentence and placed defendant on formal probation for 48 months, with appellant to serve 364 days in County Jail. Count 3 was to run consecutively to count 1. (*People v. Mora* [May 17, 2018, B280345, nonpub. opn.].)

On June 19, 2017, defendant filed a “Petition for Nunc Pro Tunc Order for Resentencing to Reflect the Imposition of Penal Code

¹ All statutory references herein are to the Penal Code unless otherwise noted.

646.9(a),” which essentially was a motion to resentence his offenses as misdemeanors rather than felonies.² Defendant contended he was unaware that both of his offenses qualified as “wobblers” until the day of sentencing, at which time his attorney told him that it was too late to assert that the offenses should be treated as misdemeanors. Further, defendant asserts that the judge improperly let the District Attorney at sentencing decide that the offenses were not wobbler eligible, although the public defender had concluded the offenses were wobblers. Defendant asserted that he had no prior violent offenses, and he had been a model prisoner.

On June 21, 2017, defendant responded to two letters (documents) he received from the court. He claimed the documents did not have the correct case number for his criminal proceedings and thus were fraudulent. Defendant also renewed his request for resentencing on his two felonies to change them to misdemeanors.³

On July 27, 2017, the trial court issued a letter (an order) in which it stated that it found no evidence of fraudulent or forged documents, only that the case number was wrong. The court denied defendant’s request for resentencing, observing that “this court does not control charging. The District Attorney elected to charge petitioner with felony counts of 646.9(a) and petitioner was sentenced on those counts as felonies based upon the jury verdicts of guilt.”

² Defendant’s petition was received by the court on June 27, 2017.

³ Defendant’s letter was received by the court on July 3, 2017.

DISCUSSION

After reviewing the record, defendant's court-appointed counsel filed an opening brief, pursuant to *Wende, supra*, 25 Cal.3d 436, asking this court to conduct an independent review of the record to determine whether any arguable issues. (*Id.* at p. 441.) On March 7, 2018, we advised defendant he had 30 days within which personally to submit any contentions or issues he wished us to consider. To date we have received no response.

We have reviewed the record in accordance with our obligations under *Wende*. We are satisfied that defendant's counsel fully complied with his responsibilities, that defendant received adequate and effective appellate review of the judgment in this action and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109–110; *Wende, supra*, 25 Cal.3d at p. 443.)

DISPOSITION

The judgment is affirmed.

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WILLHITE, Acting P. J.

We concur:

MANELLA, J.

COLLINS, J.