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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

DAMIAN TERREL STRONG,

Defendant and Appellant.

B276078

(Los Angeles County  
Super. Ct. No. BA445229)

APPEAL from a judgment of the Superior Court of Los Angeles County, Terry A. Bork, Judge. Affirmed.

William J. Capriola, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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In a March 25, 2016 felony complaint, the People charged Damian Terrell Strong with one count of attempted carjacking (Pen. Code, §§ 664, 215, subd. (a)), and further alleged he personally used a deadly weapon (a knife in the commission of the offense (Pen. Code, § 12022, subd. (b)(1)) and suffered a prison prior (Pen. Code, § 667.5, subd. (b)). The complaint also charged appellant with one count of grand theft of an automobile (Pen. Code, § 487, subd. (d)(1)), one count of unlawfully driving or taking a vehicle (Veh. Code, § 10851, subd. (a)), one count of misdemeanor hit and run (Veh. Code, § 20002, subd. (a)), and one count of driving with a revoked or suspended license (Veh. Code, § 14601.1, subd. (a)).

Pursuant to a waiver of his trial rights and advisements as to the consequences of his plea, appellant pleaded no contest to the attempted carjacking count and admitted both the knife use allegation and the prison prior. The parties stipulated to a factual basis for the plea based on the arrest reports and preliminary hearing transcripts. The trial court dismissed the remaining counts and imposed a sentence under the terms of the plea agreement of four years six months in state prison,<sup>1</sup> with the understanding that appellant was not being convicted of a violent felony and therefore would be eligible to earn conduct credit at a rate of 50 percent. (Cf. Pen. Code, §§ 2933, 2933.1, subd. (a) [conduct credit limited to 15 percent for persons convicted of violent felonies].) The court awarded him 42 days of presentence custody credits (21 days for time served plus 21 days of good conduct credit), imposed a \$300 restitution fine and

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<sup>1</sup> The term was calculated based on a middle term of two years and six months for attempted carjacking, plus one year for the knife use enhancement and one year for the prison prior.

corresponding parole revocation fine (Pen. Code, §§ 1202.4, subd. (b), 1202.45), a \$30 criminal conviction fine (Gov. Code, § 70373, subd. (a)), and a \$40 court security fee (Pen. Code, § 1465.8, subd. (a)(1)).

Appellant filed a timely notice of appeal and a request for a certificate of probable cause. In his notice of appeal, appellant marked the preprinted boxes indicating he was challenging his “sentence or other matters occurring after the plea” and “other” issues. In his request for a certificate of probable cause, he stated that state prison officials had informed him that he would be serving 85 percent of his sentence, rather than the 50 percent agreed to in the plea. The trial court denied the request for a certificate without prejudice, stating that appellant could re-file the request after an already scheduled hearing on the good conduct credit issue. At that scheduled hearing, appellant’s counsel provided a letter in which the Department of Corrections confirmed that appellant would earn good conduct credit at 50 percent. On August 8, 2016, this court issued an order stating that this appeal is limited to non-certificate issues.

We appointed counsel to represent appellant on appeal. After examination of the record, appointed counsel filed an opening brief raising no issues and asking this court to independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436, 441.) On January 27, 2017, we sent letters to appellant and appointed counsel, directing counsel to immediately forward the appellate record to appellant and advising appellant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. To date, appellant has not responded.

Appellant's guilty plea and the trial court's denial of a certificate of probable cause limit the potential scope of appellant's appeal to "[g]rounds that arose after entry of the plea and do not affect the plea's validity" or the "denial of a motion to suppress evidence under Penal Code section 1538.5." (Cal. Rules of Court, rule 8.304(b); Pen. Code, § 1237.5.) We have examined the entire record and have found that no arguable issues of any sort exist, let alone issues cognizable without a certificate of probable cause. We are satisfied that appellant's appointed counsel has fully complied with his responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109-110; *People v. Wende, supra*, 25 Cal.3d at p. 441.)

#### **DISPOSITION**

The judgment is affirmed.

CHANNEY, Acting P. J.

We concur:

JOHNSON, J.

LUI, J.