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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.

SIONE TUPE,

Defendant and Appellant.

B251138

(Los Angeles County
Super. Ct. No. YA081195)

APPEAL from a judgment of the Superior Court of Los Angeles County. Mark S. Arnold, Judge. Appeal dismissed.

Cynthia L. Barnes, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In 2013, defendant Sione Tupe was charged with committing a carjacking and three second degree robberies on October 22, 2010; a carjacking with personal use of a firearm on November 3, 2010; and a second degree robbery with personal use of a firearm on November 9, 2010. Defendant entered a negotiated plea of guilty to the November 3, 2010 carjacking and admitted he personally used a firearm in the commission of that offense (Pen. Code, § 12022.5, subd. (a)). In conformity with the plea agreement, the trial court sentenced defendant to an aggregate term of 12 years. The victim named in the count to which defendant pleaded guilty testified defendant approached her as she was near her vehicle, pointed a gun at her, chased her when she ran, and demanded the keys to the vehicle, which she relinquished. Defendant took the keys and her car.

Defendant did not seek or obtain a certificate of probable cause, but filed a timely appeal. We appointed counsel to represent defendant on appeal. After examination of the record, counsel filed an opening brief raising no issues and asking this court to independently review the record. On February 11, 2014, we advised defendant he had 30 days within which to personally submit any contentions or issues he wished us to consider. To date, we have received no response.

Defendant's guilty plea and failure to obtain a certificate of probable cause limit the potential scope of defendant's appeal to "grounds 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." (Pen. Code, § 1237.5; Cal. Rules of Court, rule 8.304(b).) 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 defendant's attorney has fully complied with her responsibilities. (*People v. Kelly* (2006) 40 Cal.4th 106, 109–110; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

We note that during the pendency of this appeal appellate counsel requested the trial court to award defendant additional presentence custody credits on the theory the court erroneously calculated the length of his actual custody, which in turn affected the

calculation of conduct credits. Because we cannot determine from the appellate record the date of defendant's arrest on this case, as opposed to either of the two pending probation violations to which the trial court referred during the change of plea and sentencing hearing, we cannot conclude the trial court erred in calculating defendant's credits or, if it erred, that it has not already corrected the error.

DISPOSITION

The appeal is dismissed.

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MILLER, J.*

We concur:

ROTHSCHILD, Acting P. J.

CHANEY, J.

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.