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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.

GILBERT YSIDRO SAAVEDRA,

Defendant and Appellant.

B294606

(Los Angeles County
Super. Ct. No. MA036079)

APPEAL from an order of the Superior Court of Los Angeles County, Christopher G. Estes, Judge. Affirmed.

Gloria C. Cohen, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On January 17, 2008, defendant Gilbert Ysidro Saavedra pled guilty to felony robbery under Penal Code section 211. The trial court sentenced him to three years probation, ordered him to pay various fines and to make restitution, and imposed behavioral constraints such as staying away from the victim and submitting to searches without a warrant or probable cause. The court granted the People's motion to dismiss the remaining counts and allegations.

On October 22, 2018, Saavedra filed a petition requesting the court to reclassify his 2008 felony robbery conviction as a misdemeanor pursuant to Proposition 47, the Safe Neighborhoods and Schools Act. On November 8, 2018, the court denied Saavedra's petition, finding his felony conviction under Penal Code section 211 rendered him ineligible for relief under Proposition 47. Saavedra filed a timely notice of appeal from the court's order denying his petition. The notice of appeal stated: "This appeal challenges eligibility under Prop. 47" and asked the court to appoint appellate counsel for him.

Saavedra's appointed counsel filed an opening brief under *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), identifying no arguable issues and requesting this court to conduct an independent review of the record. On April 24, 2019, we notified Saavedra he had 30 days to submit in writing any issues or contentions he wished us to consider. We received no response.

“Proposition 47 makes certain drug- and theft-related offenses misdemeanors, unless the offenses were committed by certain ineligible defendants.” (*People v. Rivera* (2015) 233 Cal.App.4th 1085, 1091.) Proposition 47 allows a defendant who is currently serving a sentence for a felony that would have been a misdemeanor had Proposition 47 been in effect at the time of the offense to file a petition for recall of sentence and resentencing before the trial court that entered the judgment. (Pen. Code, § 1170.18, subds. (a)-(b).) It also authorizes a defendant who has completed a sentence for a felony conviction that would have qualified as a misdemeanor at the time of the offense to apply to reclassify or reduce that conviction to a misdemeanor. (*Id.*, subds. (f)-(g).)

Saavedra’s robbery conviction is not subject to reclassification because a violation of Penal Code section 211 is not one of the offenses within the scope of Proposition 47. (See *People v. Shabazz* (2015) 237 Cal.App.4th 303, 308 [listing code sections added by Proposition 47, none of which lists Penal Code section 211 as an offense within the proposition’s purview]; *People v. Acosta* (2015) 242 Cal.App.4th 521, 526 [crime not mentioned in list of offenses reduced to misdemeanors is not within purview of Proposition 47]; *People v. Sherow* (2015) 239 Cal.App.4th 875, 878 [“petitioner for resentencing under Proposition 47 must establish his or her eligibility for such resentencing”].)

Saavedra 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 order denying his petition. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-279.)

DISPOSITION

The order denying Saavedra's petition is affirmed.

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MANELLA, P. J.

We concur:

COLLINS, J.

CURREY, J.