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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

DARRELL LYN HOLLIS,

Defendant and Appellant.

B297901

Los Angeles County

Super. Ct. No. BA440698

APPEAL from a judgment of the Superior Court of Los Angeles County, Richard S. Kemalyan, Judge. Affirmed.

Marta I. Stanton, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Defendant Darrell Lyn Hollis appeals from the judgment entered after he was resentenced for robbing two fast food franchises at gunpoint. After appellate counsel filed a brief in which she raised no issues and asked us to review the record independently under *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), defendant submitted a supplemental brief asserting defects in his original conviction and appeal. We have reviewed the entire record and defendant's supplemental brief and have found no arguable appellate issues. We therefore affirm.

BACKGROUND

On February 15, 2017, a jury convicted defendant of four counts of armed robbery (Pen. Code,¹ § 212.5, subd. (c); § 12022.53, subd. (b)). He was sentenced under the Three Strikes law to a determinate term of 30 years followed by an indeterminate term of 50 years to life.

On appeal, we vacated defendant's sentence and remanded for resentencing to allow the trial court to exercise its newly-acquired discretion to strike the firearm enhancements (§ 12022.53, subd. (b)) and serious-felony priors (§ 667, subd. (a)(1)). (Sen. Bill No. 620 (2017–2018 Reg. Sess.), Stats. 2017, ch. 682, §§ 1, 2; Sen. Bill No. 1393 (2017–2018 Reg. Sess.), Stats. 2018, ch. 1013, §§ 1, 2.) (*People v. Hollis* (Oct. 31, 2018, B281885) [nonpub. opn.].)

On remand, the court re-imposed the original sentence: The court denied defendant's motion to strike one or more of his prior strikes under *People v. Superior Court (Romero)* (1996) 13 Cal.4th

¹ All undesignated statutory references are to the Penal Code.

497, and sentenced him to an aggregate determinate term of 30 years followed by an indeterminate term of 50 years to life. For count 1, the court imposed 45 years to life—a third-strike term of 25 years to life (§ 1170.12, subds. (a)–(d); § 667, subds. (b)–(i)) plus 10 years for the personal-use enhancement (§ 12022.53, subd. (b)) and 10 years for the serious-felony priors (§ 667, subd. (a)(1)).

The court imposed 35 years to life for count 2—a third-strike term of 25 years to life plus 10 years for the personal-use enhancement—to run consecutively, and imposed and stayed 10 years for the serious-felony priors. The court imposed the same sentence of 35 years to life for counts 4 and 5, but exercised its discretion under *People v. Deloza* (1998) 18 Cal.4th 585 to run those counts concurrently.

The court ordered all fines and fees stayed until an ability to pay hearing is held.

Defendant filed a timely notice of appeal, and we appointed counsel to represent him. On August 12, 2019, appellate counsel filed a brief in which she raised no issues and asked us to review the record independently. (*Wende, supra*, 25 Cal.3d 436.) Later that day, we notified defendant that his counsel had failed to find any arguable issues and that he had 30 days to submit by brief or letter any arguments he wished this court to consider. We received a supplemental brief on August 22, 2019.

DISCUSSION

We have examined the entire record, and are satisfied appellate counsel has fully complied with her responsibilities and no arguable issues exist in the appeal before us. (*Smith v. Robbins* (2000) 528 U.S. 259, 278–284; *Wende, supra*, 25 Cal.3d at p. 443.)

As noted, defendant filed a supplemental brief in this case purporting to assert several claims of error. Yet while defendant has appealed from the judgment entered upon resentencing, he has failed to raise any issues pertaining to that resentencing. Instead, defendant uses his supplemental brief to assert claims outside the scope of this appeal. The brief is unclear as to whether defendant is raising issues pertaining to the original trial and pre-verdict proceedings or if he is claiming ineffective assistance of appellate counsel in failing to address the aforementioned issues in *Hollis I*. In either event, we do not consider the merits of these claims.

First, to the extent defendant’s contentions pertain to matters prior to resentencing, all factual predicates upon which these claims rested were available at the time of his initial appeal, and defendant offers no apparent justification as to why they could not have been raised during the first appeal. (*People v. Senior* (1995) 33 Cal.App.4th 531, 535.) As such, the issues are forfeited by his failure to raise them in *Hollis I*. (*People v. Murphy* (2001) 88 Cal.App.4th 392, 395 [“ ‘California law prohibits a direct attack upon a conviction in a second appeal after a limited remand for resentencing or other posttrial procedures’ ”].)

Second, to the extent defendant’s contentions pertain to ineffective assistance of trial and/or appellate counsel, he raises

matters outside the record in this appeal, and claims of ineffective assistance of counsel on such matters “generally must be raised in a petition for writ of habeas corpus.” (*People v. Salcido* (2008) 44 Cal.4th 93, 172.)

DISPOSITION

The judgment is affirmed.

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LAVIN, J.

WE CONCUR:

EDMON, P. J.

EGERTON, J.