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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL LEON HILL,

Defendant and Appellant.

B281202

(Los Angeles County  
Super. Ct. No. MA069731)

APPEAL from a judgment of the Superior Court of Los Angeles County, Daviann L. Mitchell, Judge. Affirmed.

Patricia S. Lai, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Michael Leon Hill appeals from the judgment entered following his negotiated plea of no contest to making a criminal threat. We affirm.

## **FACTUAL AND PROCEDURAL BACKGROUND**

### **A. *Incident***

Hill and T.J. had a sexual relationship for about a year and a half. On October 9, 2016 Hill invited T.J. to his house to pay her some money he owed. After T.J. arrived, Hill grabbed her by the neck, slammed her to the ground, and handcuffed her hands behind her back. Hill bound T.J.'s feet together with a suit tie and punched and kicked her, shaved half of her head, then spray-painted her thigh with the word "thief." Hill threatened T.J. that he would knock out her teeth, stuff her in the trunk of his car, and dump her in the desert. T.J. was scared Hill would kill her. After Hill left to go to the store, T.J. removed the tie around her feet, fled from the house, and ran about a block until she found someone to call for help. T.J. reported to the responding sheriff's deputies what had happened.

According to the probation report, sheriff's deputies advised Hill of his right to remain silent, to the presence of an attorney, and, if indigent, to appointed counsel (*Miranda v. Arizona* (1966) 384 U.S. 436). After waiving those rights, Hill claimed that T.J. had stolen \$200 from him on October 8, 2016. Hill admitted that on the following day he had handcuffed T.J., shaved her head, and spray-painted her with the word "thief."

### **B. *The Information, Plea, and Sentencing***

The People charged Hill in an information with false imprisonment by violence (Pen. Code, § 236; count 1); inflicting

corporal injury on a spouse, cohabitant, or girlfriend (§ 273.5, subd. (a); count 2); and making a criminal threat (§ 422, subd. (a); count 3). The information specially alleged as to all counts that Hill had suffered two prior serious or violent felony convictions within the meaning of the three strikes law (§§ 667, subds. (b)-(j), 1170.12) and as to count 3 that he had suffered two prior serious felony convictions within the meaning of Penal Code section 667, subdivision (a)(1). Hill pleaded not guilty and denied the special allegations.

On January 5, 2017, after the trial court impaneled and preliminarily instructed the jury, Hill agreed orally and in writing to plead no contest to count 3, making a criminal threat, to admit the allegation of one prior strike conviction, and to waive his presentence custody credits. Hill was advised of his constitutional rights and the nature and consequences of the plea, which he stated he understood. Hill's counsel joined in the plea, admissions, and waivers of Hill's constitutional rights. The trial court found Hill's waivers, plea, and admissions were voluntary, knowing, and intelligent and that there was a factual basis for the plea.

Pursuant to the plea agreement, the trial court sentenced Hill to the upper term of three years for making a criminal threat, doubled as a second strike, for an aggregate state prison term of six years. The trial court struck the allegation of a second strike conviction and dismissed the remaining counts and special allegations; Hill waived his presentence custody credits. The court also issued a domestic violence protective order to protect T.J. and ordered Hill to pay statutory fines, fees, and assessments.

On March 2, 2017 Hill filed a timely notice of appeal. In his notice of appeal, Hill checked the preprinted box, indicating his “appeal [was] based on the sentence or other matters occurring after the plea that do not affect the validity of the plea.” The trial court denied Hill’s request for a certificate of probable cause.

Following Hill’s filing of a notice of appeal, on March 13, 2017 the trial court denied Hill’s motion under *People v. Marsden* (1970) 2 Cal.3d 118 (*Marsden*) to relieve his appointed counsel. On February 3, 2017 Hill had filed a pro. per. handwritten motion to withdraw his plea, in which he argued that he could not see or read the written waiver form, he was adversely affected by medications he had taken, and his attorney had persuaded him to “take [an] unethical plea bargain.” On March 27, 2017 the trial court addressed each of these issues on the record, concluding that Hill had “a complete understanding of everything that was going on.” The trial court denied Hill’s motion to withdraw his plea.<sup>1</sup>

## DISCUSSION

We appointed counsel to represent Hill on appeal. After examination of the record, counsel filed an opening brief in which no issues were raised. On April 2, 2018 we advised Hill that he had 30 days in which to submit any contentions or issues he wished us to consider. We have received no response.

We have examined the record with respect to potential sentencing or post-plea issues that do not in substance challenge

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<sup>1</sup> We note that Hill has not appealed from these postjudgment orders.

the validity of the plea itself and are satisfied Hill's appellate attorney has fully complied with the responsibilities of counsel and no arguable issue exists. (See *Smith v. Robbins* (2000) 528 U.S. 259, 277-284; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.)

### **DISPOSITION**

The judgment is affirmed.

FEUER, J.

We concur:

PERLUSS, P. J.

SEGAL, J.