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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.

ALONZO McKINNEY,

Defendant and Appellant.

B285439

(Los Angeles County
Super. Ct. No. A087124)

APPEAL from an order of the Superior Court of Los Angeles County, H. Jay Ford, Judge. Affirmed.

Joy A. Maulitz, under appointment by the Court of Appeal, and Alonzo McKinney, in pro. per., for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Appellant Alonzo McKinney appeals from the trial court's order denying his petition for resentencing under Proposition 47. (Pen. Code, § 1170.18.) Appointed counsel filed an opening brief in accordance with *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), requesting that this court conduct an independent review of the record to determine if there are any arguable issues on appeal. We have reviewed the record and determined there are no arguable issues. We therefore affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On April 11, 2017, appellant filed a petition for resentencing, pursuant to Penal Code section 1170.18, seeking resentencing on his purported conviction for grand theft (Pen. Code, § 487). The trial court denied the petition on the ground that appellant "failed to meet his burden of proof with correct case no." Appellant listed the case number as A087184, but it appears the correct case number is A087124. Appellant filed a timely notice of appeal from that order.¹

Appointed counsel filed a *Wende* brief raising no issues. Appellant filed a *Marsden*² motion seeking to discharge appellate counsel. In his own brief, appellant contends (1) an unauthorized sentence may be corrected at any time, (2) due process entitles him to the application of favorable sentencing statutes, and (3)

¹ This is appellant's sixth *Wende* appeal filed in the last several years, all of which were affirmed. (*People v. McKinney* (Feb. 4, 2016, B267588) [nonpub. opn.]; *People v. McKinney* (Oct. 17, 2016, C081334) [nonpub. opn.]; *People v. McKinney* (May 8, 2017, B271973) [nonpub. opn.]; *People v. McKinney* (May 19, 2016, B269397) [nonpub. opn.]; *People v. McKinney* (Nov. 13, 2017, B280346) [nonpub. opn.].)

² *People v. Marsden* (1970) 2 Cal.3d 118.

appointed counsel failed to satisfy his duty to provide effective advocacy. Appellant also moves to augment the record on appeal, but failed to identify any document he wishes to be added to the record. (Cal. Rules of Court, rules 8.155(a), 8.340(c).) The *Marsden* motion and request to augment the record on appeal are denied.

DISCUSSION

A petitioner seeking resentencing bears the burden to show that he or she is eligible for relief, and to establish the facts upon which his or her eligibility is based. (*People v. Johnson* (2016) 1 Cal.App.5th 953, 962–965; *People v. Sweeney* (2016) 4 Cal.App.5th 295, 302; *People v. Perkins* (2016) 244 Cal.App.4th 129, 136–137; *People v. Rivas-Colon* (2015) 241 Cal.App.4th 444, 449–450; *People v. Sherow* (2015) 239 Cal.App.4th 875, 879–880.) This burden, with respect to theft-related offenses, includes a showing that the value of the relevant property was \$950 or less. (*Sweeney*, at p. 302.) Appellant has not met this burden.

We have reviewed the record, along with the briefs filed by appointed counsel and appellant. We are satisfied appellant’s counsel fully complied with her duties under *Wende, supra*, 25 Cal.3d 436, and find no arguable issues on appeal.

DISPOSITION

The order denying appellant's petition for resentencing is affirmed.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

MANELLA, J.