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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.

LORENZO FOREMAN,

Defendant and Appellant.

B284341

(Los Angeles County
Super. Ct. No. TA 035868)

APPEAL from an order of the Superior Court of
Los Angeles County, Andrew C. Kim, Judge. Affirmed.

Allison H. Ting, under appointment by the Court of Appeal,
for Defendant and Appellant.

No appearance for Respondent.

A jury convicted defendant and appellant Lorenzo Foreman in 1997 of one count of possession of a firearm by a felon, in violation of the former Penal Code section 12021, subdivision (a)(1).¹ Because Foreman had suffered two prior strike convictions, the trial court sentenced him to an indeterminate sentence of 25 years to life in prison. (See §§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d).) On May 18, 2017, Foreman filed a petition for resentencing pursuant to Proposition 47, the “Safe Neighborhoods and Schools Act.” (Pen. Code, § 1170.18, codifying Prop. 47, § 14, as approved by voters, Gen. Elec. (Nov. 4, 2014) effective Nov. 5, 2014.) The trial court denied the petition on the ground that the offense for which Foreman was convicted does not qualify for relief under Proposition 47.

Foreman filed a timely notice of appeal. Foreman’s appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues on appeal and requesting that we independently review the record. On March 19, 2018, we sent a letter to Foreman and to counsel. In the letter, we directed counsel to immediately send the record on this appeal and a copy of the *Wende* brief to Foreman and informed him that he had 30 days to submit by letter or brief any ground of appeal, contention or argument he wished us to consider. We have received no communication from Foreman. In his notice of appeal, however, Foreman raised arguments challenging the trial court’s denial of his petition. We will address those arguments as if they were presented in a brief.

Proposition 47 reduced certain crimes involving theft and drug possession from felonies to misdemeanors, and provided for

¹ In 2010, the Legislature repealed Penal Code section 12021 and replaced it without relevant substantive change with Penal Code section 29800.

prisoners who were convicted of those felonies prior to its enactment to petition for resentencing under the new law. (See Prop. 47, §§ 5-14.) Possession of a firearm by a felon was not affected by Proposition 47. The offense remains a felony, and a prisoner like Foreman, who was convicted of it, is not eligible for resentencing. (See §§ 1170.18, 29800, subd. (a)(1).) For this reason, the trial court did not err in denying Foreman's petition.

In his notice of appeal, Foreman contends that he is entitled to relief because his prior strike convictions for robbery involved the theft of items valued at less than \$950. This is irrelevant. Although Proposition 47 reduced certain theft offenses to misdemeanors when the items stolen were worth less than \$950, robbery is not one of the affected offenses. (See Prop. 47, §§ 5-9.) Furthermore, the offense for which Foreman is currently imprisoned, and for which he is seeking a reduction in sentence, is possession of a firearm by a felon. His prior convictions for robbery are not at issue.

Foreman also contends that he is not barred from relief under Proposition 47 because he has not been convicted of an offense described in Penal Code section 1170.18, subdivision (i), commonly known as a "super strike" offense. Again, his prior convictions were not the basis for the denial of his petition. Although a defendant who is otherwise eligible for Proposition 47 resentencing may be denied relief because of a prior super strike, Foreman's current offense for possession of a firearm by a felon is what prevents him from obtaining a reduction in sentence.

Finally, in his notice of appeal, Foreman refers several times to Propositions 36 and 57,² in addition to Proposition 47. This appeal addresses only Foreman’s Proposition 47 petition. Foreman previously petitioned for resentencing under Proposition 36, which allows certain prisoners serving third-strike sentences for nonserious and nonviolent felonies to obtain sentence reductions. (See Pen. Code, § 1170.126.) In an unpublished opinion, we affirmed the trial court’s denial of that petition. (*People v. Foreman* (Oct. 28, 2016, B270022) [nonpub. opn.].) There is no Proposition 57 petition before the court.

We have reviewed the entire record on appeal. We are satisfied that Foreman’s counsel has fully complied with her responsibilities and that no arguable appellate issue exists. (*Wende, supra*, 25 Cal.3d at p. 441; *People v. Kelly* (2006) 40 Cal.4th 106, 110.)

² Proposition 36 refers to the “Three Strikes Reform Act of 2012,” as approved by voters (Ballot Pamp., Gen. Elec. (Nov. 6, 2012), effective Nov. 7, 2012). Proposition 57 is the “Public Safety and Rehabilitation Act of 2016,” as approved by voters (Ballot Pamp., Gen. Elec. (Nov. 8, 2016), effective Nov. 9, 2016).

DISPOSITION

The judgment of the trial court is affirmed.

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ROTHSCHILD, P. J.

We concur:

CHANEY, J.

JOHNSON, J.