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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.

CLARENCE E. REESE,

Defendant and Appellant.

B266211

(Los Angeles County
Super. Ct. No. BA230274)

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

Joy A. Maulitz, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant Clarence E. Reese appeals from the trial court’s July 20, 2015 denial of his “request to recall his sentence pursuant to Senate Bill 260.” We affirm.

BACKGROUND

On August 25, 2004, defendant was convicted of one count of first-degree murder (Pen. Code,¹ §§ 187, 189) with special circumstances that he was engaged in attempted carjacking (§ 190.2, subd. (a)(17)(L)) and burglary (§ 190.2, subd. (a)(17)(G)); one count of attempted carjacking (§§ 664, 215, subd. (a)); and one count of first-degree residential burglary (§ 459). For each count, the jury also found a variety of firearm enhancements true (§ 12022.53, subds. (b) – (e)(1)). (*People v. Reese* (Mar. 7, 2007, B186147) [nonpub. opn.] at p. 2.) Defendant was a juvenile offender when the crimes were committed. On September 15, 2005, the trial court sentenced him to 25 years to life and imposed a \$10,000 restitution fine. The judgment was affirmed on appeal. (*People v. Reese* (Mar. 7, 2007, B186147) [nonpub. opn.]

On June 25, 2015, defendant filed a “notice to recall sentence pursuant to Senate Bill 260.” The court denied the motion on July 20, 2015. Defendant filed a timely notice of appeal from that order on August 10, 2015.

On December 9, 2015, defendant’s appointed appellate counsel filed a brief in which she raised no issues and asked us to review the record independently. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). On December 31, 2015, 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 have received no response.

REVIEW ON APPEAL

After the sentencing in this case, the Legislature passed Senate Bill No. 260 (2013–2014 Reg. Sess.), effective January 1, 2014, which enacted section 3051. (Stats. 2013, ch. 312, § 4.) Section 3051 provides an opportunity for a juvenile offender

¹ All undesignated statutory references are to the Penal Code.

to be released on parole irrespective of the sentence imposed by the trial court by requiring the Board of Parole Hearings to conduct “youth offender parole hearings” on a set schedule depending on the length of the prisoner's sentence. Relevant here, youth offender parole hearings must be held no later than during the 25th year of incarceration for a prisoner serving a life term of 25 years to life. (*Id.*, subd. (b)(3).) Thus, under section 3051, defendant would be entitled to a parole hearing on or before September 15, 2030. However, since defendant has not established that he was entitled to a parole hearing by July 20, 2015 when his motion was denied, or less than ten years after he was sentenced, there is no basis for reversing the court’s order.²

We have examined the entire record and are satisfied defendant’s appellate counsel has complied fully with her responsibilities. (*Smith v. Robbins* (2000) 528 U.S. 259, 278–284 [120 S.Ct. 746]; *Wende, supra*, 25 Cal.3d at p. 433.)

² The question of how Senate Bill No. 260 affects issues of cruel and unusual punishment for youth offenders is currently before our Supreme Court. (*In re Alatraste* (2013) 220 Cal.App.4th 1232, review granted Feb. 19, 2014, S214652.)

DISPOSITION

The order is affirmed.

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LAVIN, J.

WE CONCUR:

EDMON, P. J.

HOGUE, J.^{*}

^{*} Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.