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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.

JACK G. DADANIAN,

Defendant and Appellant.

B283202

(Los Angeles County
Super. Ct. No. VA137718)

APPEAL from a judgment of the Superior Court of Los Angeles County, Joseph R. Porras, Judge. Affirmed.

Pamela J. Voich, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On March 2, 2015, Jack G. Dadanian, who had a long criminal history including a conviction for forcible sexual penetration (Pen. Code, § 289, subd. (a)(1)), pleaded guilty to possession of heroin by a specified prior felon, and was sentenced to 16 months in prison (Health & Saf. Code, § 6600, subd. (b)).

On November 4, 2014, the voters enacted Proposition 47, the Safe Neighborhoods and Schools Act, which reduces certain nonserious and nonviolent crimes, such as low-level drug- and theft-related offenses, from felonies to misdemeanors. (*People v. Contreras* (2015) 237 Cal.App.4th 868, 889-890.) A qualifying person serving a sentence for a felony that was reclassified under Proposition 47 may petition the trial court for a recall of sentence and request resentencing, which must be granted “unless the court, in its discretion, determines that resentencing the petitioner would pose an unreasonable risk of danger to public safety.” (Pen. Code, § 1170.18, subds. (a)-(c).) As pertinent here, Proposition 47 amended Health and Safety Code section 11350 to reclassify certain controlled substance possession charges from felonies to misdemeanors. (Health & Saf. Code, § 11350, subd. (a).)

However, Proposition 47 resentencing is unavailable to anyone who in the past was convicted of an offense specified in subdivision (e)(2)(C)(iv) of Penal Code section 667. That subdivision defines as a “sexually violent offense” any offense defined in subdivision (b) of section 6600 of the Welfare and Institutions Code. (Pen. Code, § 667, subd. (e)(2)(C)(iv)(I).) Subdivision (b) of section 6600 of the Welfare and Institutions Code defines forcible sexual penetration as a sexually violent offense.

On April 26, 2017, Dadanian filed a petition to recall his sentence, arguing his possession offense was reclassified as a misdemeanor by Proposition 47. The trial court denied the petition on the ground that Dadanian's prior conviction for forcible sexual penetration disqualified him from relief under Proposition 47. Dadanian filed a timely notice of appeal.

We appointed counsel to represent Dadanian on appeal, but after examination of the record counsel filed an opening brief raising no issues and asking this court to review the record independently pursuant to *People v. Wende* (1979) 25 Cal.3d 436. On January 23, 2018, we informed Dadanian he had 30 days to submit any contentions or issues he wished us to consider. We also directed his appointed counsel to send the record and opening brief to him immediately. We received no response.

We have examined the entire record and conclude Dadanian's counsel complied with the responsibilities set forth in *People v. Kelly* (2006) 40 Cal.4th 106 and *People v. Wende, supra*, 25 Cal.3d at page 441. No arguable issues exist.

DISPOSITION

The judgment is affirmed.

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CHANNEY, J.

We concur:

ROTHSCHILD, P. J.

BENDIX, J.*

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