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REPORTS**

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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.

ANTHONY DWAYNE  
THOMPSON,

Defendant and Appellant.

B277389

(Los Angeles County  
Super. Ct. No. BA167182)

APPEAL from an order of the Superior Court of Los Angeles County, Frederick N. Wapner, Judge. Affirmed.

Stephane Quinn, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Respondent.

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On April 2, 1998, appellant Anthony Dwayne Thompson was convicted of possession of a narcotic substance for sale in violation of Health and Safety Code section 11351. On August 3, 2016, after completing his sentence, appellant filed a form petition/application for resentencing pursuant to Penal Code section 1170.18, subdivision (f) to reclassify that felony conviction to a misdemeanor.<sup>1</sup>

On August 15, 2016, the trial court denied the application, finding that appellant did not qualify for relief. The court found the felony conviction could not be reduced to a misdemeanor, as “[i]t’s an 11351 of the Health and Safety Code.”

Appellant timely appealed. After examining the record, appointed appellate counsel filed a brief raising no issues, but asking this court to independently review the record on appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441-442. (See *Smith v. Robbins* (2000) 528 U.S. 259, 264.) Appellant filed a supplemental brief, arguing (1) that the court erred in denying the petition “without explanation or finding of the facts”; and (2) that the facts of the underlying conviction showed he possessed only 00.02 grams of cocaine, which was “a usable amount” and thus “insufficient to sustain Petitioner’s conviction.”

Appellant has not demonstrated his eligibility for relief under section 1170.18. A conviction pursuant to section

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<sup>1</sup> All further statutory citations are to the Penal Code, unless otherwise stated.

11351 of the Health and Safety Code is not listed as a crime eligible for resentencing under the statute. (See § 1170.18, subd. (a) [listing crimes eligible for resentencing].) Thus, the trial court properly concluded that the offense was not reducible to a misdemeanor.

As to appellant's second ground for appeal, he cannot challenge the factual basis for his conviction under Health and Safety Code section 11351 in the resentencing proceeding. Such a challenge was cognizable in a direct appeal from the 1998 judgment of conviction, but not in a section 1170.18 proceeding.

This court has examined the entire record in accordance with *People v. Wende, supra*, 25 Cal.3d at pages 441-442, and is satisfied appellant's attorney has fully complied with the responsibilities of counsel, and no arguable issues exist. Accordingly, we affirm.

#### **DISPOSITION**

The order is affirmed.

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MANELLA, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.