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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

OTIS TYRONE BAKER,

Defendant and Appellant.

B237205

(Los Angeles County
Super. Ct. No. MA049896)

APPEAL from an order of the Superior Court of Los Angeles County, Charles A. Chung and Christopher G. Estes, Judges. Affirmed.

Jason M. Zoladz, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Defendant Otis Tyrone Baker appeals from the order revoking probation and imposing a previously suspended four-year state prison sentence. No meritorious issues have been identified following a review of the record by defendant's appointed counsel and our own independent review of the record. (*People v. Wende* (1979) 25 Cal.3d 436, 441.) We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On July 18, 2010, defendant was approached by police officers outside his apartment complex. He attempted to flee but slipped on the wet driveway, and a handgun fell from his waistband. Defendant picked up the gun and ran into one of the apartments. The officers followed defendant to the open front door, and watched him conceal the handgun under a mattress. The officers arrested defendant and retrieved the handgun, which was loaded.

Defendant was charged by information with one count of carrying a loaded and unregistered handgun (Pen. Code, § 12031, subd. (a)(1); count 1).¹ It was further alleged that defendant had suffered a prior serious or violent felony conviction for robbery within the meaning of the "Three Strikes" law (§§ 667, subds. (b)-(i), 1170.12).

Appearing with appointed counsel on March 22, 2011, defendant entered a no contest plea to the court to carrying a loaded and unregistered handgun. The court sentenced defendant to an aggregate state prison term of four years, consisting of the middle two-year term doubled under the Three Strikes law. The court suspended imposition of sentence and placed defendant on three years of formal probation. Among the conditions of defendant's probation were that he "[o]bey all laws."

¹ All further statutory references are to the Penal Code.

On September 15, 2011, defendant's probation was summarily revoked following his arrest for making a criminal threat and committing vandalism in Los Angeles Superior Court case No. MA053912.² On September 29, a contested probation violation hearing in the instant case (No. MA049896) was held concurrently with the preliminary hearing on the new case (No. MA053912), before a different officer than the one who had originally placed defendant on probation.

At the contested probation violation hearing, the People introduced evidence that when defendant arrived to pick up his girlfriend, Coquiece Yates, at her sister's house, the two of them argued. Yates went back inside her sister's house, and defendant knocked on the front door. When Yates opened the door, defendant said, "I'm a Crip. I'm going to get my whole crew on your ass." Yates then heard some loud banging and called police. She examined her car and found it had been newly dented and the taillights had been broken. Defendant later admitted to police that he had damaged Yates's car.

At the conclusion of the hearing, the trial court granted the defense motion to dismiss the charge of making a criminal threat (count 1) and to reduce the charge of felony vandalism (count 2) to misdemeanor vandalism for lack of evidence. The trial court found by a preponderance of the evidence that defendant had violated his probation by vandalizing Yates's car, thereby failing to obey all laws.³

At the sentencing on October 26, 2011, the trial court imposed the previously suspended sentence of four years in state prison. Defendant received presentence custody credit of 85 days (57 actual days and 28 days of conduct credit), plus 365 days of presentence custody credit as calculated at the time of defendant's original sentencing hearing. The court ordered defendant to pay a \$40 security assessment fee, a \$30 criminal assessment fee and a \$200 restitution fine. The court imposed and stayed a parole revocation fine.

² All case numbers refer to Los Angeles Superior Court cases.

³ Prior to sentencing defendant, the trial court noted defendant was not initially eligible for probation because of his prior strike conviction.

DISCUSSION

We appointed counsel to represent defendant on appeal. After examination of the record, counsel filed an opening brief in which no issues were raised. On July 9, 2012, we advised defendant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. No response has been received to date.

We have examined the entire record and are satisfied defendant's attorney has complied fully with the responsibilities of counsel. No arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119; *People v. Wende, supra*, 25 Cal.3d at p. 441.)

DISPOSITION

The order is affirmed.

JACKSON, J.

We concur:

WOODS, Acting P. J.

ZELON, J.