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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.

EDWARD DEMERSON,

Defendant and Appellant.

B265828

(Los Angeles County
Super. Ct. No. NA097355)

APPEAL from a judgment of the Superior Court of Los Angeles County. Mildred Escobedo, Judge. Appeal dismissed.

Marta I. Stanton, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance by Plaintiff and Respondent.

An information, filed on December 4, 2013, charged appellant Edward Demerson with two counts: (1) carrying a dirk or dagger, in violation of Penal Code section 21310,¹ a felony (count 1); and (2) of making criminal threats in violation section 422, a felony (count 2). It also alleged that appellant had three prior serious or violent felony convictions (§§ 667, subds. (b)-(j), 1170.12, subds. (a)-(d)), and had served nine prior prison terms within the meaning of section 667.5, subdivision (b). According to the preliminary hearing transcript, both counts were based on an incident in a restaurant in Long Beach, in which appellant verbally threaten the restaurant employees. During the incident, the employees also observed that appellant had a large knife tucked in the waistband of his pants.

After initially entering a plea of not guilty, on June 16, 2015, appellant changed his plea and pleaded no contest to count 1, and admitted suffering one prior strike. The court found a factual basis for the plea, and dismissed count 2 and the other allegations. Under the plea deal, the trial court sentenced appellant to four years in prison, which consisted of the middle term of two years for count 1, doubled under sections 1170.12, subdivisions (a)-(d) and 667, subdivisions (b)-(j). The court imposed a restitution fine of \$300 (§§ 1202.4, 1202.45), required fees and assessments (Gov. Code, §§ 70373, 1465.8), and awarded appellant presentence custody and conduct credits.² Appellant filed a notice of appeal.

We appointed counsel to represent appellant in the matter. After examining the record, counsel filed a *Wende* brief raising no issues on appeal and requesting that we independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) On January 22, 2016, we directed appointed counsel to immediately send the record on appeal and a copy of the opening brief to appellant and notified appellant that within

¹ All statutory references are to the Penal Code unless otherwise indicated.

² At sentencing, the court incorrectly calculated appellant's total custody credits as 1,162 days. On January 8, 2016, upon appellant's motion, the trial court corrected the judgment to reflect a total of 1,184 days of credits.

30 days from the date of the notice he could submit by letter or brief any ground of appeal, contention or argument he wished us to consider. We did not receive a response.

We must dismiss the appeal. A defendant who has pleaded guilty or no contest to a charge may not obtain appellate review of the validity of his plea unless he complies with section 1237.5 by obtaining a certificate of probable cause from the trial court. (*People v. Mendez* (1999) 19 Cal.4th 1084, 1088.) “Such a defendant may obtain review solely of so-called ‘noncertificate’ issues, that is, postplea questions not challenging his plea’s validity and/or questions involving a search or seizure whose lawfulness was contested pursuant to section 1538.5,” if the notice of appeal states noncertificate grounds. (*Ibid.*) Appellant did not obtain a certificate of probable cause, nor did he list any noncertificate issues in his notice of appeal. He also did not submit a brief or letter on appeal stating any such challenge, and we have not identified any noncertificate issue warranting appellate review. As a result, appellant’s failure to obtain a certificate of probable cause from the trial court is fatal to his appeal and requires its dismissal. (Cal. Rules of Court, rule 8.304(b); *People v. Mendez, supra*, 19 Cal.4th at pp. 1095-1096.)

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

DISPOSITION

The appeal is dismissed.

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ROTHSCHILD, P. J.

We concur:

CHANEY, J.

JOHNSON, J.