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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

THOMAS TURNER,

Defendant and Appellant.

A133567

**(Solano County
Super. Ct. No. FC23583)**

Thomas Turner appeals from an order extending his commitment as a mentally disordered offender (MDO). (Pen. Code, §§ 2970, 2972.)¹ His counsel on appeal has filed an opening brief asking this court to conduct an independent review of the record under *Anders v. California* (1967) 386 U.S. 738 (*Anders*) and *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Because this review is not available in an appeal from an MDO extension order, we dismiss the appeal.

I. BACKGROUND

Given the posture of this case, we need not set forth the facts or procedural history in any detail. Suffice it to say that in August 1987, appellant kidnapped a three-month-old baby girl from her home, brutally assaulted her, and abandoned her in a field. He received a 26-year prison term after pleading no contest to residential burglary and forcible lewd conduct on a child under 14 years of age. (§§ 459/460, 288, subd. (b).)

¹ Except where otherwise indicated, further statutory references are to the Penal Code.

Appellant, who has been diagnosed with sexual sadism and pedophilia, was involuntarily committed as an MDO. (§ 2962 et seq.). By order filed October 26, 2011, his commitment was extended following a jury trial, and he filed this appeal.² Appellant's appointed counsel has submitted an opening brief stating that he has found no arguable appellate issues and asking this court to conduct an independent *Anders/Wende* review of the record. Counsel advised appellant of his right to file a supplemental brief within 30 days of the date the opening brief was filed, but appellant has not done so.

II. DISCUSSION

An indigent criminal defendant is entitled to have the appellate court independently review the record when appointed counsel files a brief stating that he or she has found no arguable issues. (*Anders, supra*, 386 U.S. 738; *Wende, supra*, 25 Cal.3d 436.) This right to independent review does not extend to judgments that are civil in nature, even when those judgments may result in the deprivation of a liberty interest. (*Conservatorship of Ben C.* (2007) 40 Cal.4th 529 (*Ben C.*) [Lanterman–Petris–Short conservatorship proceedings under Welf. & Inst. Code, § 5350 et seq.])

In *People v. Taylor* (2008) 160 Cal.App.4th 304 (*Taylor*), the court concluded that the *Anders/Wende* review procedures do not apply to an order extending an MDO commitment. (*Taylor*, at pp. 312–313; see also *People v. Dobson* (2008) 161 Cal.App.4th 1422 [*Wende* procedures do not apply to an appeal from the denial of a petition for restoration of sanity filed under § 1026.2].) We find the reasoning of *Taylor* to be persuasive and follow it here.

Appointed counsel recognizes that an *Anders/Wende* review is not constitutionally compelled, but notes that this court may conduct such a review in its discretion. (See *Ben C., supra*, 40 Cal.4th at p. 544, fn. 7.) We decline to do so.

² Appellant has appealed unsuccessfully from three prior extension orders. (See *People v. Turner* (Jan. 22, 2009, A120988) [nonpub. opn.]; *People v. Turner* (Apr. 14, 2010, A124142) [nonpub. opn.]; *People v. Turner* (Aug. 5, 2011, A130233) [nonpub. opn.]

III. DISPOSITION

The appeal is dismissed.

NEEDHAM, J.

We concur.

JONES, P. J.

BRUNIERS, J.