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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

LUIS E. GARCIA,

Defendant and Appellant.

A144446

(San Francisco County
Super. Ct. No. SCN220093)

Appellant Luis E. Garcia was charged with a number of offenses in connection with a series of robberies of cell phones from passengers on San Francisco Muni trains in February 2013. He pleaded guilty under a negotiated disposition to first degree robbery of a transit passenger (Pen. Code, § 211). Garcia was 18 years old when he committed the offense.

His counsel has asked this court for an independent review of the record to determine whether there are any arguable issues. (*People v. Wende* (1979) 25 Cal.3d 436.) We find none and affirm.

In the trial court, the parties extensively litigated whether the prosecution had complied with its obligation to turn over all relevant discovery. The trial court granted Garcia's request to be given a transcript of grand-jury proceedings, but it denied his request to be given witnesses' telephone numbers, email addresses, birthdates, social security numbers, and driver's license numbers. This court likewise denied Garcia's petition for a writ of mandate seeking witnesses' contact information. (*Garcia v. Superior Court*, petn. den. Nov. 12, 2013, A140134.)

Under the plea agreement, the district attorney recommended, and the trial court indicated, a sentence of four years in prison. After Garcia entered his guilty plea and before sentencing, he requested commitment in the custody of the Department of Juvenile Justice (DJJ) under Welfare and Institutions Code section 1731.5, which permits the trial court to commit a person who was under 21 at the time of arrest to be committed to the DJJ. The People opposed the request.

After hearing argument, the trial court concluded that it lacked the authority to order Garcia to be placed in the custody of the DJJ, sentenced Garcia to four years in prison, and imposed various fees and fines. Garcia also was ordered to pay victim restitution.

Garcia obtained a certificate of probable cause to challenge the trial court's conclusion that it lacked discretion to refer Garcia to the DJJ, although it does not appear that he was required to do so. (Cf. Cal. Rules of Court, rule 8.304(b)(4)(B) [defendant need not seek certificate of probable cause after guilty plea when appeal is based on grounds that arose after entry of plea and that do not affect the plea's validity].)

There are no meritorious issues to be argued on appeal. Welfare and Institutions Code section 1732.5 provides that no person who commits a serious felony such as robbery when that person was 18 years old or older shall be committed to DJJ. (See also Pen. Code, § 1192.7, subd. (c)(19); *People v. Haynes* (1984) 160 Cal.App.3d 1122, 1133-1134 [Welf. & Inst. Code, § 1732.5 does not violate equal protection].) Thus, the trial court properly concluded that it lacked authority to place Garcia in the custody of DJJ. No other error appears in Garcia's sentence.

The judgment is affirmed.

Humes, P.J.

We concur:

Margulies, J.

Banke, J.

People v. Garcia (A144446)