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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

RAY MOSELY,

Defendant and Appellant.

A147241

(Alameda County
Super. Ct. No. C159776B)

Defendant Ray Mosley appeals an order denying his request to modify his sentence to remove a requirement that he register as a sex offender. His counsel has filed an opening brief raising no issues and asking this court for an independent review of the record. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant has been informed of his right to personally file a supplemental brief, but he has not done so.

In 2009, pursuant to a plea agreement, defendant pled guilty to one charge of kidnapping a child under the age of 14 years (Pen. Code,¹ § 208, subd. (b), count two) and one count of human trafficking of a minor (§ 236.1, subd. (c), count three), and admitted a firearm enhancement (§ 12022.5, subd. (a)). According to the probation officer's report, defendant and another man held a 13-year-old girl hostage, threatened

¹ All statutory references are to the Penal Code.

her with a gun, and forced her into prostitution. On August 11, 2009, defendant was sentenced to ten years in prison.²

In February 2015, defendant sent the trial court a letter inquiring into whether he would be required to register as a sex offender upon his release. He stated the issue of registration had not been raised when he entered his plea and argued his waiver of his right to a trial was therefore invalid.³ The court reviewed the letter and ruled that no action was required.

Defendant filed an ex parte motion on October 22, 2015, requesting “modification of his sentence to remove the sex offender registration requirement.” The trial court denied the motion on November 20, 2015, concluding that because the judgment was final and there were no pending criminal proceedings, it lacked jurisdiction to modify the sentence by motion. (*Lewis v. Superior Court* (2008) 169 Cal.App.4th 70, 76–77; *People v. Sparks* (1952) 112 Cal.App.2d 120, 121; § 1170, subd. (d).) Defendant has appealed from this order.

We conclude that there are no meritorious issues to be argued. In reaching this conclusion, we express no view as to whether other relief may be available to defendant.

² At the recommendation of the California Department of Corrections and Rehabilitation, the judgment was later amended in a manner not relevant to the order before us on appeal. (See § 1170, subd. (d).) The trial court also denied defendant’s petition for writ of habeas corpus, filed December 18, 2014, which raised issues regarding his sentence. The February 9, 2015 order denying that petition is not before us in this appeal.

³ Proposition 35, enacted by the voters by initiative measure in 2012, three years after defendant’s plea, added section 236.1, subdivision (c) to the offenses that require sex offender registration pursuant to section 290. (Voter Information Guide, Gen. Elec. (Nov. 6, 2012) text of Prop. 35, §9, p. 103.) Because section 290 had not yet been amended to require registration for a violation of section 236.1, defendant’s original sentence did not include a sex offender registration requirement. However, it appears that by 2015, he had learned that his records from the California Department of Corrections and Rehabilitation included the requirement that he register as a sex offender upon his release.

DISPOSITION

The November 20, 2015 order is affirmed.

Rivera, J.

We concur:

Reardon, Acting P.J.

Streeter, J.