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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

SERGIO ZUNIGA SARMIENTO,

Defendant and Appellant.

B236990

(Los Angeles County  
Super. Ct. No. PA070073)

THE COURT:\*

Sergio Zuniga Sarmiento appeals from the judgment entered following his conviction pursuant to a no contest plea to felony unauthorized cultivation of marijuana (Health & Saf. Code, § 11358). Pursuant to the plea agreement, the trial court placed appellant on three years formal probation subject to conditions, including the condition that he serve 180 days in county jail—time served.

The facts underlying appellant's conviction are as follows:<sup>1</sup>

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\* DOI TODD, Acting P. J., ASHMANN-GERST, J., CHAVEZ, J.

<sup>1</sup> We provide only a brief recitation of facts taken from the probation report.

Appellant was a passenger in a car driven by defendant Esquivel<sup>2</sup> which was stopped by officers for having a cracked windshield. The officers detected the odor of marijuana coming from the car as they approached. They also observed a plastic bottle containing 0.81 grams of marijuana on the center console. The occupants were instructed to exit the car. Appellant was searched and \$73.06 was recovered from him. Esquivel was searched and \$747 and a pipe containing marijuana residue was recovered. The officers also recovered two large bags, containing 273.54 grams of marijuana and numerous cell phones.

Before filing this appeal, appellant, a permanent United States resident since June 2001, applied for a certificate of probable cause on the ground that he suffered ineffective assistance of counsel. He claimed that his attorney failed to adequately advise him of the immigration consequences of his plea and told him that he would be eligible for immigration relief to avoid deportation. Appellant is now in immigration court and is not subject to any relief because he is an “aggravated felon.” The trial court granted appellant’s request for a certificate of probable cause.

We appointed counsel to represent appellant on appeal. After examination of the record, counsel filed an “Opening Brief” in which no issues were raised. On February 23, 2012, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. No response from appellant has been received.

We note, however, with regard to appellant’s claim that he did not understand the consequences of his no contest plea, that he filled out and signed the “Felony Advisement of Rights, Waiver, and Plea Form,” initialing the box after the statement, “Immigration Consequences-I understand that if I am not a citizen of the United States, I must expect my plea of guilty or no contest will result in my deportation, exclusion from admission or reentry to the United States, and denial of naturalization and amnesty.” At the hearing, the trial court informed appellant, “If you are not a U.S. citizen you could be deported,

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<sup>2</sup> Esquivel is not a party to this appeal.

excluded from the country, or denied naturalization.” Appellant responded affirmatively when asked if he understood that statement. Moreover, to the extent that appellant contends that he suffered ineffective assistance of counsel, that claim must generally be raised by petition for writ of habeas corpus based on matters outside of the appellate record. (*People v. Salcido* (2008) 44 Cal.4th 93, 172.)

We have examined the entire record and are satisfied that appellant’s attorney has fully complied with her responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment under review is affirmed.

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