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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL SANCHEZ,

Defendant and Appellant.

B238537

(Los Angeles County
Super. Ct. No. KA083606)

APPEAL from a judgment of the Superior Court of Los Angeles County, Wade Olson, Judge. Affirmed.

California Appellate Project and Richard B. Lennon, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Daniel Sanchez appeals from the judgment entered following his plea of no contest to one count of second degree robbery (Pen. Code, § 211)¹ during the commission of which he personally used a firearm (§ 12022.5, subd. (a)). The trial court sentenced Sanchez to 12 years in prison and awarded him a total of 249 days of presentence custody credit. We affirm.

FACTUAL AND PROCEDURAL HISTORY

On July 23, 2008, an information was filed in case No. KA083606 in which Sanchez was charged with one count of second degree robbery (§ 211) and one count of willfully evading an officer while operating a motor vehicle (Veh. Code, § 2800.2, subd. (a)). It was further alleged as to counts 1 and 2 that, during the offenses, Sanchez personally used a firearm, a handgun, within the meaning of section 12022.53, subdivision (b), which caused the robbery and evading charges to become serious felonies pursuant to section 1192.7, subdivision (c)(8) and violent felonies within the meaning of section 667.5, subdivision (c)(8). In addition, it was alleged as to counts 1 and 2 that Sanchez had been convicted of five felonies between 2001 and 2006, which prohibited a grant of probation within the meaning of section 1203, subdivision (e)(4), and that he had suffered five prior convictions for which he served prison terms within the meaning of section 667.5, subdivision (b).

On February 6, 2009, Sanchez entered into a plea bargain under the terms of which he would plead guilty or no contest to second degree robbery, during which he

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

used a firearm. In exchange, he would be sentenced to 12 years in prison. On the plea form, Sanchez indicated that he understood that the court would order him to pay restitution, fees and other assessments, and that he would receive presentence custody credit for 217 days actually served and 32 days of good time/work time, for a total of 249 days.

After waiving his right to a jury trial, his right to a court trial, his right to confront and cross-examine witnesses, his right against self-incrimination and his right to produce evidence and to put on a defense, including his right to testify on his own behalf, Sanchez “freely and voluntarily” pled no contest to second degree robbery and admitted having used a gun during the offense.

The trial court found that there was a factual basis for the plea, accepted it, then imposed sentence pursuant to the plea agreement. For his conviction of second degree robbery as alleged in count 1, the trial court sentenced Sanchez to two years in state prison. For Sanchez’s use of a gun during the offense, the court imposed a term of 10 years, for a total sentence of 12 years in state prison. The trial court then dismissed all remaining counts and allegations.

On December 23, 2011, Sanchez, acting in propria persona, filed in the trial court a “Motion to Correct [the] Abstract of Judgment.” Sanchez asserted that the 249 days of presentence custody credit awarded “failed to include all the in-custody [c]redits from the non-controlling cases, and previous incarcerations in [its] sentencing calcula[tions]. [¶] [Sanchez indicated] that he is entitled to credit in the amount of over 1000 days of actual

custody and over 200 days of [good time/work time] for a total of over 1200 days of pre-sentence in-custody credits.”

Sanchez requested the trial court to order its clerk to “create an amended Abstract of Judgment to reflect the proper credits to the sentence . . . for a total of over 1200 days, and submit the amended Abstract . . . to the Department of Corrections [which should] . . . immediately apply the credits.”

At proceedings held on December 23, 2011, the trial court denied Sanchez’s motion. The trial court found “that the defendant ha[d] been given the proper custody credits.”

On January 17, 2012, Sanchez filed a notice of appeal and requested the appointment of counsel. This court appointed counsel to represent Sanchez on appeal.

CONTENTIONS

After examination of the record, counsel filed an opening brief which raised no issues and requested this court to conduct an independent review of the record. By notice filed May 30, 2012, the clerk of this court advised Sanchez to submit within 30 days any contentions, grounds of appeal or arguments he wished this court to consider.

Sanchez submitted a brief in which he again contended he is entitled to over 1,200 days of presentence custody credit. The contention, however, is without merit. Section 2900.5, subdivision (b) provides: “For the purpose of this section, credit shall be given only where the custody to be credited is attributable to proceedings related to the same conduct for which the defendant has been convicted.” Here, sentence was imposed for the robbery with a firearm alleged in case No. KA083606 and Sanchez is entitled to

presentence custody credit attributable to that matter only. The trial court properly awarded him credit for 249 days.

REVIEW ON APPEAL

We have examined the entire record and are satisfied counsel has complied fully with counsel's responsibilities. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-284; *People v. Wende* (1979) 25 Cal.3d 436, 443.)

DISPOSITION

The judgment is affirmed.

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CROSKEY, J.

We concur:

KLEIN, P. J.

ALDRICH, J.