

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

RICHARD HIDALGO,

Defendant and Appellant.

B239023

(Los Angeles County
Super. Ct. No. BA283824)

APPEAL from an order of the Superior Court of Los Angeles County.
George Gonzalez Lomeli, Judge. Affirmed.

Linn Davis, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Richard Hidalgo appeals from an order denying a motion to vacate his plea. We affirm the order.

BACKGROUND

In November 2011, Hidalgo, filed a Judicial Council form “Petition for Dismissal” pursuant to Penal Code sections 1203.4 and 12034a.¹ He appended a motion to withdraw his plea. Hidalgo’s 2011 papers explained that he was convicted in April 2005 of driving a motor vehicle under the influence of alcohol (count 1; Veh. Code, § 23152, subd. (a)); driving a motor vehicle with a blood alcohol content of .08 percent or more (count 2; Veh. Code, § 23152, subd. (b)); and carrying a concealed dirk or dagger (count 3; former Pen. Code, § 12020, subd. (a)(4).) In addition, the trial court found that Hidalgo had suffered three prior convictions (1996, 2000, 2001) for driving under the influence of alcohol.

Hidalgo’s 2011 papers further explained that he was then being detained in an immigration facility, and was being told he faced deportation based on his convictions in his 2005 criminal case. Hidalgo stated that his attorney in his 2005 case did not explain to him that being convicted would cause him immigration consequences. Hidalgo also stated that “the record for [H]is case does not indicate that the trial court advised [him] of the immigration consequences,” and that there was “no record” showing he signed a plea agreement. Hidalgo’s allegations were supported solely by his personal assertions. They were not accompanied by a signed declaration made under penalty of perjury. In addition, Hidalgo’s papers did not include copies of any materials from his 2005 case – no information, minute order, abstract of judgment, or reporter’s transcript of any proceeding.

On January 19, 2012, the trial conducted a hearing on Hidalgo’s motion. The trial court denied the motion and Hidalgo filed a timely notice of appeal.

¹ Dismissal after probation or after sentence served.

We appointed counsel to represent Hidalgo on appeal. Appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, requesting that this court review the record on appeal for arguable issues. On September 12, 2012, we notified Hidalgo by letter that he could submit any claims, arguments or issues which he wished us to review. Hidalgo has not responded to our letter.

We have independently reviewed the record on appeal, and are satisfied that Hidalgo's appointed counsel has ably fulfilled his duty, and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d 436, *People v. Kelly* (2006) 40 Cal.4th 106.) We add one final note: that Hidalgo's 2005 convictions were not the result of a plea; he was convicted by a jury at trial. He appealed, and we affirmed his convictions. (*People v. Hidalgo* (Mar. 6, 2008, B194475) [nonpub. opn.])

DISPOSITION

The order is affirmed.

BIGELOW, P. J.

We concur:

RUBIN, J.

FLIER, J.