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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SIX

THE PEOPLE,
Plaintiff and Respondent,

v.

BRIAN ANDREW SMITH,
Defendant and Appellant.

2d Crim. No. B239844
(Super. Ct. No. A087800)
(Los Angeles County)

Brian Andrew Smith appeals an order denying his petition for writ of error coram nobis to vacate a 1984 robbery conviction by plea which resulted in a three-year state prison sentence. (Pen. Code, § 211.)

In 2011, appellant filed a petition for writ of error coram nobis while serving a 25-year-to-life Three Strikes sentence in Case No. A087800. The writ petition alleged that the 1984 conviction was illegally used as a strike in Case No. A087800 because appellant was not advised of his right to court trial or of the consequences of his plea (mandatory parole) when the change of plea was entered in 1984, and because the trial judge who took the plea (Honorable Judge Lawrence J. Rittenband) did not have an oath of office on file with the Secretary of State in 1984 (Gov. Code § 1363, subd. (a)(3)).

The trial court denied the petition. (See *People v. Shipman* (1965) 62 Cal.2d 226, 230.)

We appointed counsel to represent appellant in this appeal. After examination of the record, counsel filed an opening brief in which no issues were raised.

On May 15, 2012, we advised appellant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. On June 14, 2012, appellant filed a supplemental brief stating that the judge's failure to file an oath of office rendered the 1984 conviction void and that he was denied effective assistance of counsel in the Three Strikes case, i.e., Case No. A087800.

It is well settled that coram nobis does not lie correct errors of law or to redress irregularities at trial that could have been timely corrected by motion for new trial, appeal, or habeas corpus. (6 Witkin & Epstein, Cal. Criminal Law (3rd ed. 2000) Criminal Judgment §§ 185-187, pp. 215-218; *People v. Hayman* (1956) 145 Cal.App.2d 620, 623; see also *People v. Perry* (1889) 79 Cal. 105, 112-112 [discussing former Political Code, §§ 909, 996; public official's inadvertent failure to file oath of office does not forfeit office].) Nor are claims of claims of ineffective assistance of counsel within the scope of coram nobis. (*People v. Kim* (2009) 45 Cal.4th 1078, 1104; *People v. Gallardo* (2000) 77 Cal.App.4th 971, 982-983.) Having reviewed the entire record, we are satisfied that appellant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 4443; *People v. Kelly* (2006) 40 Cal.4th 106, 126.)

The judgment (order denying petition for writ of coram nobis) is affirmed.

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YEGAN, J.

We concur:

GILBERT, P.J.

PERREN, J.

Chester Horn, Judge
Superior Court County of Los Angeles

California Appellate Project, under appointment by the Court of Appeal,
Jonathan B. Steiner, Executive Director and Richard B. Lennon, Staff Attorney, for
Appellant.

No appearance for Respondent.