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

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL E. GONZALEZ,

Defendant and Appellant.

B250015

(Los Angeles County
Super. Ct. No. MA058492)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Bernie C. Laforteza, Judge. Affirmed.

Jerome McGuire, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant Daniel E. Gonzalez appeals from the judgment entered following his no contest plea to forgery and his admission that he had suffered a prior serious felony conviction within the meaning of the “Three Strikes” law. (Pen. Code, §§ 476, 667, subds. (b)-(i), 1170.12, subds. (a)-(d).)¹ He contends counsel provided ineffective assistance. We affirm the judgment.

PROCEDURAL BACKGROUND

On January 23, 2013, the Los Angeles County District Attorney’s Office filed a complaint charging defendant with one count of forgery and one count of second degree burglary. (§§ 476, 459.) It also was alleged he had suffered a prior serious felony conviction within the meaning of the Three Strikes law, he was required to serve any custody time in state prison (§ 1170.12, subd. (h)(3)), and he had served three prior prison terms within the meaning of section 667.5, subdivision (b).

On January 31, 2013, defendant pled no contest to the forgery charge and admitted that he had suffered a prior serious felony conviction. The court agreed to release defendant on his own recognizance, with the understanding that if he appeared for sentencing he would receive 32 months. However, if he failed to appear or otherwise violated the terms and conditions of his release, he would receive a six-year prison term. The remaining count and allegations were to be dismissed.

On March 1, 2013, the matter was called for sentencing. Defendant failed to appear, and a bench warrant was issued. On July 1, 2013, defendant appeared after being arrested on the warrant. Pursuant to the terms of the plea agreement, he was sentenced to six years.

Defendant filed a notice of appeal. In his request for a certificate of probable cause, he alleged counsel was ineffective for failing to file a motion to strike the prior

¹ All further statutory references are to the Penal Code.

conviction pursuant to *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497 (*Romero*). The trial court signed the certificate of probable cause.

DISCUSSION

Defendant's appointed appellate counsel filed a brief that raised no issues and asked this court to independently review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. On December 5, 2013, this court sent defendant a letter informing him of the nature of the brief that had been filed and advising him he had 30 days to file a supplemental brief raising any issues that he wished for us to consider. To date, we have received no response.

We consider the claim he raised in his notice of appeal. As noted, he complained that his counsel provided ineffective assistance by failing to file a *Romero* motion. ““A reviewing court will indulge in a presumption that counsel's performance fell within the wide range of professional competence and that counsel's actions and inactions can be explained as a matter of sound trial strategy. Defendant thus bears the burden of establishing constitutionally inadequate assistance of counsel. [Citations.] If the record on appeal sheds no light on why counsel acted or failed to act in the manner challenged, an appellate claim of ineffective assistance of counsel must be rejected unless counsel was asked for an explanation and failed to provide one, or there simply could be no satisfactory explanation. [Citation.]' [Citation.]” (*People v. Gamache* (2010) 48 Cal.4th 347, 391.)

Here, the record does not reveal why trial counsel did not file a *Romero* motion. Our examination of the record establishes that defendant was facing a maximum sentence of nine years in state prison (the high term of three years doubled to six plus an additional three years for the prison priors). Counsel negotiated a settlement that reduced defendant's sentence to 32 months, which he would have received had he not violated the terms of his conditional release. Thus, the record does not support a finding that there is

no satisfactory explanation for counsel's failure to file a *Romero* motion. Accordingly, defendant's appellate claim of ineffective assistance of counsel cannot be sustained.

We have independently reviewed the record and are satisfied no appellate issues exist. Defendant has received effective appellate review of the judgment entered against him. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-279; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

DISPOSITION

The judgment is affirmed.

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EDMON, J.*

We concur:

EPSTEIN, P. J.

WILLHITE, J.

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.