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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

M.O.,

Defendant and Appellant.

B255594

(Los Angeles County
Super. Ct. No. J009806)

APPEAL from an order of the Superior Court of Los Angeles County, Fumiko H. Wasserman, Judge. Affirmed.

Bruce G. Finebaum, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Defendant and appellant M.O. filed a petition to seal his juvenile records pursuant to Welfare and Institutions Code section 781.¹ The trial court denied the petition, finding that defendant was disqualified from having his juvenile records sealed because he had an adult criminal record and a juvenile adjudication for an offense listed in section 707, subdivision (b).

On appeal, defendant's appointed counsel filed an opening brief in accordance with *People v. Wende* (1979) 25 Cal.3d 436 requesting that this court conduct an independent review of the record to determine if there are any arguable issues. On September 10, 2014, we gave notice to defendant that counsel had failed to find any arguable issues and that defendant had 30 days within which to submit by brief or letter any grounds of appeal, contentions, or arguments he wished this court to consider. Defendant filed a letter brief in which he appears to contend that the juvenile adjudication that the trial court relied on in part to deny his petition to seal his juvenile records was not for robbery, but for attempted robbery (Pen. Code, §§ 664/211), which is not a listed disqualifying offense under section 707, subdivision (b). We affirm.

BACKGROUND²

A report prepared by the Probation Department reflects, among numerous other sustained petitions and adverse contacts with law enforcement, a sustained petition for robbery when defendant was 17 years old. The report also reflects a felony conviction for assault with a deadly weapon (Pen. Code, § 245, subd. (a)) when defendant was an adult. The Probation Department stated that defendant was ineligible to have his juvenile records sealed because he had been "convicted, as an adult, of any felony or of a

¹ All statutory citations are to the Welfare and Institutions Code unless otherwise noted.

² Because the trial court decided defendant's petition to seal juvenile records based on a report from the Probation Department, we set forth the relevant facts from that report.

misdemeanor involving moral turpitude.” It further stated that defendant was ineligible to have his juvenile records sealed because he had a sustained petition for robbery after he was 14 years old or older within the meaning of section 707, subdivision (b).

DISCUSSION

In his letter brief, defendant appears to contend that the juvenile adjudication that the trial court relied on to deny his petition to seal his juvenile records was for attempted robbery which is not a disqualifying offense listed in section 707, subdivision (b), and not for robbery which is a disqualifying offense listed in section 707, subdivision (b).³ As apparent support for this proposition, he attached an “Adendum [*sic*] to Petition to Seal Juvenile Records and Court Order” which lists the relevant juvenile adjudication as attempted robbery. Even if the juvenile adjudication at issue was for attempted robbery and not robbery, however, defendant still was disqualified from having his juvenile court records sealed because he suffered a felony conviction as an adult, a disqualifying factor he does not address on appeal. (§ 781, subd. (a) [“If, after hearing, the court finds that since the termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order all records, papers, and exhibits in the person’s case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, and any other records relating to the case in the custody of the other agencies and officials as are named in the order”].) Accordingly, the trial court did not err in denying defendant’s petition to seal his juvenile records.

³ Section 781, subdivision (a) provides, in relevant part, “Notwithstanding any other provision of law, the court shall not order the person’s records sealed in any case in which the person has been found by the juvenile court to have committed an offense listed in subdivision (b) of Section 707 when he or she had attained 14 years of age or older.” Section 707, subdivision (b) lists robbery as a disqualifying offense.

We have otherwise examined the entire record and are satisfied that defendant's counsel has fully complied with his responsibilities and that no other arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.) Accordingly, we affirm the order.

DISPOSITION

The order is affirmed.

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MOSK, J.

We concur:

TURNER, P. J.

GOODMAN, J.*

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