

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

FRANCISCO JAVIER RODRIGUEZ,

Defendant and Appellant.

B267210

(Los Angeles County
Super. Ct. No. YA003869)

APPEAL from a judgment of the Superior Court of Los Angeles County. Steven R. Van Sicklen, Judge. Affirmed.

Leonard J. Klaif, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance by Plaintiff and Respondent.

An information filed on June 4, 1990, charged appellant Francisco Javier Rodriguez with two counts of felony second-degree attempted robbery in violation of Penal Code section 211 and section 664.¹ Appellant pleaded guilty to one count. The trial court dismissed the other count and sentenced him to 365 days in county jail followed by three years of probation.

On August 24, 2015, appellant filed a petition under Proposition 47 to have his attempted robbery conviction redesignated as a misdemeanor under section 1170.18, subdivision (f). The trial court denied the petition on the ground section 1170.18 is not applicable to a conviction for attempted robbery. Appellant filed a notice of appeal.

We appointed counsel to represent appellant in the matter. After examining the record, counsel filed a *Wende* brief raising no issues on appeal and requesting that we independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) On March 21, 2016, we directed appointed counsel to immediately send the record on appeal and a copy of the opening brief to appellant. We notified appellant that within 30 days from the date of the notice he could submit by letter or brief any ground of appeal, contention or argument he wished us to consider. We received no response.

We have independently examined the entire record and are satisfied that appellant's attorney has fully complied with his responsibilities and, as we discuss below, that no arguable appellate issue exists. (*People v. Wende, supra*, 25 Cal.3d at p. 441; *People v. Kelly* (2006) 40 Cal.4th 106, 110.)

Misdemeanor resentencing under Proposition 47 is available to “[a] person currently serving a sentence for a conviction” under “[s]ections 11350, 11357, or 11377 of the Health and Safety Code, or [s]ection 459.5, 473, 476a, 490.2, 496, or 666 of the Penal Code.” (§ 1170.18, subd. (a).) Appellant is not eligible for resentencing under Proposition 47 sentencing statute because section 211 is not among the offenses specified in section 1170.18. Consequently, the trial court properly denied the petition. No other plausible basis for appeal appears in the record, and accordingly, we affirm the judgment.

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

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

CHANEY, J.

JOHNSON, J.