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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL FELIX MAYFIELD,

Defendant and Appellant.

D061437

(Super. Ct. No. SCD232103)

APPEAL from a judgment of the Superior Court of San Diego County, Robert F. O'Neill, Judge. Affirmed.

INTRODUCTION

A. Guilty Plea

At a change of plea hearing on November 3, 2011, Michael Felix Mayfield, after consulting with his defense counsel and initialing and signing a "Plea of Guilty/No Contest—Felony" form, waived his constitutional rights and pleaded guilty to one count of conspiracy to commit grand theft (Pen. Code, § 182, subd. (a)(1), hereafter § 182(a)(1); count 1) (undesigned statutory references will be to the Penal Code) and

two counts of preparing false grant deeds (§ 115, subd. (a), hereafter (§ 115(a); counts 3 & 9). As part of the plea agreement, he also admitted an enhancement allegation under section 12022.6, subdivision (a)(2) (hereafter § 12022.6(a)(2)) that the aggregate losses to the victims exceeded \$200,000.

In exchange for his guilty plea, the parties stipulated that Mayfield would be sentenced to serve three years four months in custody. At the time of Mayfield's guilty plea, the parties anticipated he would serve his sentence locally in the county jail under the realignment provisions of section 1170, subdivision (h) (hereafter § 1170(h)).

B. Sentencing and Postsentencing Proceedings

1. Sentencing

At the December 9, 2011 sentencing hearing, the court sentenced Mayfield to serve three years four months in custody. Specifically, the court imposed the middle term of two years for the violation of section 182(a)(1), plus two consecutive eight-month terms for the two violations of section 115(a), and a concurrent two-year term for the section 12022.6(a)(2) enhancement. The court also ordered Mayfield to pay a restitution fine, jointly and severally with a codefendant, in the total amount of \$604,217.96. A checked box on an addendum to the court's sentencing minutes indicated the court committed Mayfield to the custody of the sheriff of San Diego County under section 1170(h).

2. Correction of sentencing minutes and denial of motion to withdraw the plea

At a hearing on February 10, 2012, at which Mayfield was present and represented by counsel, the court found he was not eligible for commitment to the custody of the

sheriff under section 1170(h) "because of the charges that were filed to which he pled guilty." Stating that the probation officer's report "may have evaluated this pursuant to the realignment sentencing law," the court found that the checked box on the court's sentencing minutes indicating Mayfield was committed to the custody of the sheriff under section 1170(h) was "incorrect."

In addition, after defense counsel stated that Mayfield "is yet to decide whether or not he will be pursuing a motion to withdraw the plea," the court stated it would "take it as a motion to withdraw the [guilty] plea," and denied the motion on the ground it was "untimely since he has already been sentenced." The court then stated: "At this point in time, the court will reaffirm the sentence previously imposed. [Mayfield] is remanded to the custody of the sheriff of San Diego County, transportation by the sheriff to [the] California Department of Corrections and Rehabilitation." The court added that Mayfield's "remedy is to bring a writ of habeas corpus."

Mayfield then addressed the court, stating, "I just wanted to bring up the fact that my Fifth Amendment [rights were] violated and my Sixth Amendment [rights were] violated. I am also receiving cruel and unusual punishment by not having treatment since August, which is a violation of my Constitutional rights." The court replied, "Sir, your remedy is to bring a writ of habeas corpus."

Mayfield continued, stating: "And I can prove that my evidence was tampered with by an agency while custody right here from a letter from internal affairs and a document not on record from the Sheriff's Department." The court replied, "Go for it, sir. Good luck to you."

3. *Certificate of probable cause*

Mayfield's appeal followed. The court thereafter granted his request for a certificate of probable cause.

FACTUAL BACKGROUND

For purposes of the change of plea hearing, Mayfield admitted as the factual basis for his guilty plea that he "[u]nlawfully conspired with [his codefendant] to commit the crime of grand theft and unlawfully and knowingly filed a forged grant deed in a public office in California on two separate occasions and the loss was greater than \$200,000."

DISCUSSION

Appointed appellate counsel has filed a brief summarizing the proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U. S. 738, counsel refers to the following as possible, but not arguable, issues: (1) "Whether [Mayfield's] guilty plea and admission were knowing and voluntary under the totality of the circumstances" and (2) "Whether the trial court complied with the plea agreement by ordering that [Mayfield] serve his sentence in state prison."

On July 2, 2012, we granted Mayfield permission to file a brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, and *Anders v. California, supra*, 386 U.S. 738, including the possible issues raised by appellate counsel has disclosed no reasonably arguable appellate issue. The record shows

he was properly advised of his rights before he entered his guilty plea and admitted the enhancement allegation, he knowingly and voluntarily entered his guilty plea and admission, and there is a factual basis for his plea. The record also shows the court properly sentenced Mayfield, who has been adequately represented by counsel on this appeal.

DISPOSITION

The judgment is affirmed.

NARES, Acting P.J.

WE CONCUR:

McDONALD, J.

O'ROURKE, J.