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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JASON ONEIL LEE,

Defendant and Appellant.

D061596

(Super. Ct. No. SCD231620)

APPEAL from a judgment of the Superior Court of San Diego County, Louis R. Hanoian, Judge. Affirmed.

I.

INTRODUCTION

Jason Oneil Lee pled guilty to one count of possession of cocaine base for sale (Health & Saf. Code, § 11351.5, subd. (a))¹ and admitted that he had suffered two prior convictions within the meaning of section 11370.2, subdivision (a). The trial court

¹ Further statutory references are to the Health and Safety Code unless otherwise indicated.

sentenced Lee to the low term of three years on the offense, plus an additional three-year term for one of the prior conviction enhancements, for a total term of six years. We affirm.

II.

FACTUAL AND PROCEDURAL BACKGROUND

On April 11, 2011, the People charged Lee with possession of cocaine base for sale. The information further alleged that prior to committing this offense, Lee had been convicted of three qualifying offenses within the meaning of section 11370.2, subdivision (a), and that he had suffered two one-year prison priors within the meaning of Penal Code sections 667.5, subdivision (b) and 668.

Lee brought a motion to suppress evidence. After holding a hearing on the matter, the trial court denied the motion.

On the day that trial was scheduled to commence, the court held a hearing in response to a *Mardsen*² motion that Lee had filed. The court denied Lee's motion. Lee then informed the court that he wanted to proceed in pro per. However, Lee changed his mind and agreed to plead guilty pursuant to a plea agreement. Lee pled guilty to the possession for sale count, and admitted having suffered two of the section 11370.2, subdivision (a) enhancement allegations. In exchange for Lee's guilty plea, the People agreed to dismiss the balance of the alleged enhancements and further agreed that Lee's sentence would be determined by the court.

² *People v. Marsden* (1970) 2 Cal.3d 118.

The trial court denied probation and sentenced Lee to the low term of three years on the substantive offense. The court sentenced Lee to an additional three years, consecutive, on one of the section 11370.2, subdivision (a) enhancements, and struck the other section 11370.2, subdivision (a) enhancement pursuant to Penal Code section 1385, subdivision (c)(1).³

Lee filed a timely notice of appeal.

Lee's appointed appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). We invited Lee to file a brief on his own behalf, but he has not responded.

III.

DISCUSSION

In his brief on appeal, Lee's counsel presents no argument for reversal, but asks this court to review the record for error, as mandated by *Wende, supra*, 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738 (*Anders*), counsel lists as possible, but not arguable, issues: (1) "Is appellant's guilty plea constitutionally valid?" and (2) "Did the trial court err in denying appellant's motion to suppress?"

A review of the record pursuant to *Wende, supra*, 25 Cal.3d 436 and *Anders, supra*, 386 U.S. 738, including the possible issues listed pursuant to *Anders*, has disclosed

³ The trial court originally imposed, but stayed, the sentence on the second section 11370.2, subdivision (a) enhancement, but later amended the judgment to strike the enhancement.

no reasonably arguable appellate issues. Lee has been competently represented by counsel in this appeal.

IV.

DISPOSITION

The judgment is affirmed.

AARON, J.

WE CONCUR:

McCONNELL, P. J.

BENKE, J.