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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

MATTHEW MARK DENNIS,

Defendant and Appellant.

D066391

(Super. Ct. No. SCD253372,  
SCD254868)

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

Gideon Margolis for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Matthew Mark Dennis appeals from the judgments following his guilty pleas in two separate criminal prosecutions. Appointed appellate counsel filed a brief presenting no argument for reversal, but inviting this court to review the record for error in accordance with *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Dennis has not

responded to our invitation to file a supplemental brief. After having independently reviewed the entire record for error as required by *Anders v. California* (1967) 386 U.S. 738 (*Anders*) and *Wende*, we affirm.

## I

### FACTUAL AND PROCEDURAL BACKGROUND

Dennis filed a single notice of appeal from the judgment in two separate criminal cases against him.

In the first case (case No. SCD253372), Dennis was charged with petty theft with a prior theft conviction (Pen. Code, §§ 484, 666)<sup>1</sup> and possession of paraphernalia used for narcotics (Health & Saf. Code, § 11364.1, subd. (a)). The information further alleged that Dennis had prison priors (§§ 667.5, 668) and two prior strikes (§§ 667, subd. (b)-(i), 1170.12, 668). The two prior strikes, which Dennis incurred in 2004, were for arson (§ 451, subd. (b)) and domestic violence (§§ 273.5, 1192.7, subd. (c)(8)). According to the probation officer's report, the petty theft occurred on January 12, 2014, when Dennis shoplifted a bottle of rum, worth \$23.99, from a supermarket. When Dennis was arrested, police found a glass pipe in his pocket.

On January 27, 2014, Dennis pled guilty to the petty theft with a prior theft conviction, and the People dismissed the remainder of the complaint. The trial court granted formal probation to Dennis, with the condition that he serve 180 days in local custody, along with the payment of fines and restitution.

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<sup>1</sup> Unless otherwise indicated, all further statutory citations are to the Penal Code.

In the second case (case No. SCD254868), Dennis was charged with robbery (§ 211). The information also alleged prison priors and the same two prior strikes that were alleged in case No. SCD253372. According to the probation officer's report, the robbery occurred on August 2, 2013, when Dennis entered a credit union, demanded that the teller give him money, and left with \$5,116. Dennis was not charged with the robbery until March 2014, when he was identified as the perpetrator as the result of an anonymous tip.

Dennis pled guilty to the robbery on June 2, 2014. The trial court indicated when taking Dennis's guilty plea that, during sentencing, it intended to strike one of Dennis's prior strikes. In connection with sentencing, Dennis filed a motion to strike one or both of his prior strikes. At the July 15, 2014 sentencing hearing, the trial court struck one of Dennis's prior strikes and sentenced Dennis to a 12-year prison term. Dennis subsequently made an ex parte motion to recall and modify his sentence, which the trial court denied.

During the sentencing on the robbery conviction (i.e., case No. SCD254868), the parties agreed that the trial court should modify the sentence on the petty theft conviction (i.e., case No. SCD253372) so that Dennis did not have to continue to remain on probation in that case. Specifically, with the agreement of the parties, the trial court ordered that the probation in case No. SCD253372 be modified to a 16-month prison sentence, which Dennis would serve concurrently with the sentence for the robbery conviction.

Dennis filed a combined notice of appeal from the judgment in cases Nos. SCD253372 and SCD254868, and obtained certificates of probable cause from the trial court for the appeal in both cases.

## II

### DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings in the trial court. Counsel presented no argument for reversal but invited this court to review the record for error in accordance with *Wende, supra*, 25 Cal.3d 436.

Pursuant to *Anders, supra*, 386 U.S. 738, counsel identified as a possible but not arguable issue whether the trial court abused its discretion in declining to strike both of Dennis's prior strikes.

After we received counsel's brief, we gave Dennis an opportunity to file a supplemental brief, but Dennis did not respond.

A review of the record pursuant to *Wende, supra*, 25 Cal.3d 436, and *Anders, supra*, 386 U.S. 738, including the issue suggested by counsel, has disclosed no reasonably arguable appellate issue. Dennis has been adequately represented by counsel on this appeal.

DISPOSITION

The judgment is affirmed.

IRION, J.

WE CONCUR:

BENKE, Acting P. J.

NARES, J.