

NOT TO BE PUBLISHED IN OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

GARY LEWIS WHITE, JR.,

Defendant and Appellant.

E055104

(Super.Ct.No. RIF129248)

OPINION

APPEAL from the Superior Court of Riverside County. Richard J. Hanscom, Judge. (Retired judge of the San Diego Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

John D. O’Loughlin, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Gary Lewis White, Jr., is serving a prison term of nine years eight months after a jury convicted him of three counts of selling cocaine base (Health & Saf. Code, § 11352, subd.(a)), and the trial court found true allegations that defendant had a prior “strike” conviction (Pen. Code, § 1170.12) and two prior prison terms (Pen. Code, § 667.5).

FACTS AND PROCEDURE

On February 1, 2006, a sergeant with the Riverside County Sheriff’s Department, working undercover, purchased \$20 worth of crack cocaine from defendant through the open door of an apartment building. The sergeant clearly saw defendant’s face and later testified to this at trial. The jury saw this encounter at trial on the video the sergeant made using a video camera hidden on his body.

On February 8, 2006, the same sergeant made another such purchase from defendant, which the jury also saw on video.

On February 15, 2006, the same sergeant made a third drug purchase from defendant. The camera equipment malfunctioned and so no videotape of the transaction was made.

On June 11, 2007, the People filed an information charging defendant with three counts of selling cocaine base. On July 11, 2007, the trial court ordered defendant’s bail forfeited and issued a bench warrant for failure to appear.

Defendant was tried in October 2011 after being brought from Texas, where he had been in custody. On October 13, 2011, the jury convicted him on all three counts of selling cocaine base. On November 18, 2011, the trial court found true that

defendant had a prior “strike” conviction and two prison term priors. The trial court agreed to dismiss one of the prison term priors. The trial court sentenced defendant to nine years eight months in prison. This appeal followed.

DISCUSSION

Upon defendant’s request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d 493], setting forth a statement of the case, a summary of the facts, and potential arguable issues and requesting this court to conduct an independent review of the record.¹

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues.

¹ On July 3, 2012, this court granted appellant’s request, filed by counsel, to strike the filing of his *Wende* brief. Counsel subsequently filed a second *Wende* brief. On July 30, 2012, this court denied appellant’s handwritten motion to substitute counsel on appeal. Appellant requested new appellate counsel because counsel did not fully brief an issue regarding sufficiency of the evidence, contrary to appellant’s wishes. This court also granted appellant an extension to serve and file his supplemental appellant’s opening brief.

DISPOSITION

The judgment of conviction is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RAMIREZ
P. J.

We concur:

McKINSTER
J.

MILLER
J.