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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

ALCIDE LEVONT LEWIS WALKER,

Defendant and Appellant.

E056908

(Super.Ct.No. FSB905426)

OPINION

APPEAL from the Superior Court of San Bernardino County. Bryan Foster,
Judge. Affirmed.

Neil Auwarter, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

On July 2, 2010, an information charged defendant and appellant Alcide Levont Lewis Walker with murder (Pen. Code, § 187, subd. (a)),¹ and included a special allegation that he personally discharged a firearm causing death (§ 12022.53, subd. (d)) (count 1); second degree robbery (§ 211), including a special allegation that he personally discharged a firearm causing death (§ 12022.53, subd. (d)) (count 2); possession of a firearm by a felon (§ 12021, subd. (a)(1)) (count 3); and attempted murder (§ 664, 187, subd. (a)), including a special allegation that he personally discharged a firearm causing great bodily injury (§ 12022.53, subd. (d)) (count 4). The information further alleged one prior prison term. (§ 667.5, subd. (b).)

On November 5, 2010, defendant made a *Marsden*² motion requesting new appointed counsel. After a hearing, the trial court denied the motion.

On January 19, 2011, jury trial commenced. On that same date, on a motion by the prosecution and in the interest of justice, count 3 was dismissed (§ 12021, subd. (a)(1)), and the prior prison term allegation (§ 667.5, subd. (b)) was stricken.

On January 24, 2011, pursuant to a written plea agreement, defendant pled guilty to first degree murder (§ 187, subd. (a)) under count 1 and admitted the personal firearm discharge allegation (§ 12022.53, subd. (d)), in exchange for a stipulated sentence of 50 years to life in state prison, the dismissal of the remaining allegations, and the

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

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

prosecution's agreement to uphold all prior agreements with codefendants. The agreement further purported to waive defendant's right to appeal the judgment.

On June 5, 2012, Appellate Defenders, Inc., filed a petition for writ of habeas corpus on behalf of defendant to establish the constructive timely filing of a notice of appeal. On July 27, 2012, we granted the petition. On August 3, 2012, defendant filed his notice of appeal challenging the sentence or other matters not affecting the validity of the plea and challenging the validity of the plea or admission. The notice of appeal included a request for a certificate of probable cause, which the trial court denied.

STATEMENT OF FACTS

According to the probation report, on December 10, 2009, defendant fatally shot a man who had cheated defendant in a methamphetamine transaction.

ANALYSIS

After defendant appealed, and upon his 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, setting forth a statement of the case, a summary of the facts and potential arguable issues, and requesting this court to undertake a review of the entire record.

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 conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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McKINSTER
J.

We concur:

HOLLENHORST
Acting P. J.

CODRINGTON
J.