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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.

NOAH STONE,

Defendant and Appellant.

E057960

(Super.Ct.No. INF1203031)

OPINION

APPEAL from the Superior Court of Riverside County. Jeffrey L. Gunther, Judge. (Retired judge of the Sacramento Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Howard Cohen, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

On December 12, 2012, a felony complaint charged defendant and appellant Noah Stone with willfully and unlawfully carrying a dirk or dagger concealed upon his person. (Pen. Code, § 21310.)¹ The complaint also alleged a strike prior (§§ 667, subds. (c), (e)(1), 1170.12, subd. (c)(1)), and two prior prison term allegations (§ 667.5, subd. (b)).

On December 26, 2012, pursuant to a plea agreement, defendant pled guilty to count 1. Immediately thereafter, the trial court found defendant ineligible for probation, and sentenced him to the agreed-upon midterm of two years in state prison. Defendant received 30 days of credit for time served, consisting of 15 actual days and 15 days pursuant to section 4019. The People moved to strike the other allegations, and the trial court granted the motion.

On January 9, 2013, defendant in pro. per., filed a notice of appeal, challenging the validity of the plea and requesting a certificate of probable cause. On January 15, the trial court denied defendant's request. On February 4, 2013, appellate counsel filed an amended notice of appeal on defendant's behalf, "based on the sentence or other matters that occurred after the plea."

STATEMENT OF FACTS

In the plea agreement, defendant stated that he "did the things that are stated in the charges that I am admitting."

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

In the reporter's transcript of the hearing wherein defendant pled guilty, defendant hesitated in admitting that he was carrying a concealed weapon. The trial court, therefore, stated, "[i]f you're not guilty, then I'm not going to accept your plea, and we'll just go to trial or hearing." Defendant, however, stated, "I'll accept it." To that, the court responded as follows: "I want you to fully communicate this with your counsel. I will refuse to accept your plea unless you have a full understanding of your rights and the full understanding that this is, indeed, your desire. I will not accept—this agreed-to disposition is off the table unless you consult with your counsel and discuss this fully and turn back to me telling me that you have."

This colloquy then transpired:

"THE DEFENDANT: According to the law, yes, the law is the law. According to the law, yeah.

"[DEFENSE COUNSEL]: So you agree with the fact [that you were carrying a concealed weapon]?"

"THE DEFENDANT: I agree with it according to the law.

"THE COURT: You fully discussed this with your counsel?"

"THE DEFENDANT: Yes, sir.

"THE COURT: How do you plead?"

"THE DEFENDANT: Guilty, sir."

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.

RICHLI
J.