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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.

JEFFREY NEWTON HALEY, JR.,

Defendant and Appellant.

E060636

(Super.Ct.No. FVI1303492)

OPINION

APPEAL from the Superior Court of San Bernardino County. Steve Malone, Judge. Affirmed.

Cindi B. Mishkin, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Jeffrey Newton Haley, Jr., was charged by felony complaint with selling/transporting a controlled substance. (Health & Saf. Code, § 11379, subd. (a), count 1.) It was also alleged that he had served two prior prison

terms. (Pen. Code, § 667.5, subd. (b).) On November 12, 2013, the complaint was amended to add a charge of possession of methamphetamine for sale (Health & Saf. Code, § 11378, count 2) and a gang enhancement (Pen. Code, § 186.22, subd. (b)(1)(A)). The parties stipulated that the court could consider the felony complaint as an information and that it could consider the police reports in determining a factual basis for the plea. Pursuant to a plea agreement, defendant pled guilty to count 2 and admitted the gang enhancement. In exchange, the court dismissed the remaining count and allegation. At the sentencing hearing on February 10, 2014, defendant sought to discharge his appointed counsel and substitute another attorney, pursuant to *People v. Marsden* (1970) 2 Cal.3d 118. He claimed that he was not advised properly and that he was forced into taking the plea. The court denied the motion. Defendant then requested a continuance so that he could hire new counsel to make a motion to withdraw his plea, based on the same arguments made in the *Marsden* motion. The court denied the request. It then sentenced defendant to the low term of 16 months in state prison.

Defendant filed a timely notice of appeal. We affirm.

PROCEDURAL BACKGROUND

Defendant was charged with and admitted that, on or about October 24, 2013, he possessed for sale a controlled substance. (§ 11378.)

DISCUSSION

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 and the following potential arguable issues: 1) whether defendant's plea was constitutionally valid; 2) whether the court established a sufficient factual basis for the plea; 3) whether the court abused its discretion in denying defendant's *Marsden* motion; 4) whether the court abused its discretion in denying defendant's request for a continuance to hire new counsel; and 5) whether the court abused its discretion by denying probation and ordering defendant to serve 16 months in prison. Counsel has also requested this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, which he has not done.

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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HOLLENHORST
Acting P. J.

We concur:

KING
J.

MILLER
J.