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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.

DONALD RAY DISON,

Defendant and Appellant.

E064827

(Super.Ct.No. FSB14308)

OPINION

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

Stephen M. Hinkle, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant Donald Ray Dison appeals from an order denying his petition to reduce his robbery conviction to a misdemeanor pursuant to Penal Code section 1170.18.¹ We affirm the order.

PROCEDURAL BACKGROUND

On April 17, 1997, the People filed a felony complaint charging defendant with robbery (§ 211) and alleging defendant personally used a handgun and a sawed-off shotgun. (§ 12022.5, subd. (a).) On July 1, 1997, defendant pled guilty to count one and admitted the gun enhancement. On July 29, 1997, the trial court sentenced him as agreed to a total of seven years in prison – the middle term of three years for the robbery plus a consecutive lower term of four years for the gun enhancement.

On November 4, 2014, voters enacted Proposition 47, and it went into effect the next day. (Cal. Const., art. II, § 10, subd. (a).) “Proposition 47 makes certain drug- and theft-related offenses misdemeanors, unless the offenses were committed by certain ineligible defendants. These offenses had previously been designated as either felonies or wobblers (crimes that can be punished as either felonies or misdemeanors).” (*People v. Rivera* (2015) 233 Cal.App.4th 1085, 1091.) “Proposition 47 also created a new resentencing provision: section 1170.18. Under section 1170.18, a person ‘currently serving’ a felony sentence for an offense that is now a misdemeanor under Proposition

¹ All further statutory references will be to the Penal Code, unless otherwise noted.

47, may petition for a recall of that sentence and request resentencing in accordance with the statutes that were added or amended by Proposition 47.” (*Id.* at p. 1092.)

On August 14, 2015, defendant filed a petition for resentencing pursuant to section 1170.18. At a hearing on October 26, 2015, the court determined that defendant’s charge did not qualify for relief under Proposition 47 and denied the petition.

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, setting forth a statement of the case and one potential arguable issue: whether the court erred in denying defendant’s petition for resentencing under Proposition 47. 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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RAMIREZ
P. J.

We concur:

McKINSTER
J.

MILLER
J.