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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.

KEITH WAYNE ELLISON,

Defendant and Appellant.

E065328

(Super.Ct.No. SWF000825)

O P I N I O N

APPEAL from the Superior Court of Riverside County. Becky Dugan, Judge.

Affirmed.

Marilee Marshall, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant, Keith Wayne Ellison, filed a petition for resentencing pursuant to Penal Code section 1170.18, which the court granted. After defendant filed a notice of appeal, 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 identifying two potentially arguable issues: whether the reduction of defendant's 2002 felony conviction to a misdemeanor might affect any sentence he is now serving in a separate case and whether that issue is cognizable in this appeal. We affirm.

### I. PROCEDURAL STATEMENT

On September 10, 2002, the People filed a felony complaint charging defendant with possession of methamphetamine (count 1; Health & Saf. Code, § 11377, subd. (a)) and possession of drug paraphernalia (count 2; Health & Saf. Code, § 11364). The People additionally alleged defendant had suffered two prior prison terms (Pen. Code, § 667.5, subd. (b)) and a prior strike conviction (Pen. Code, §§ 667, subds. (c), (e)(1), 1170.12, subd. (c)(1)).

On the same date, defendant pled guilty to the count 1 offense and admitted the prior strike allegation. The additional count and allegations were dismissed. The court sentenced defendant to an aggregate term of two years eight months' incarceration.

On April 13, 2015, defendant filed a petition for resentencing pursuant to Penal Code section 1170.18, subdivision (f) seeking reduction of the offense from a felony to a misdemeanor. Defendant noted that he had already completed his sentence. The People submitted a response dated June 16, 2015, requesting a hearing be set to determine whether defendant posed an unreasonable risk of danger to public safety.

On October 19, 2015, defendant filed a request for a ruling on his petition. The court filed the People's response dated June 16, 2015. The court set the matter for a hearing.

At the hearing on December 4, 2015, the People observed that defendant had served his time on the case, had been arrested in another case, and was in custody. The People withdrew their request for a hearing on dangerousness and submitted on the petition. The court granted the petition and deemed defendant's conviction a misdemeanor.

## II. DISCUSSION

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 independently reviewed the record for potential error and find no arguable issues.

## III. DISPOSITION

The judgment is affirmed.

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McKINSTER  
Acting P. J.

We concur:

MILLER  
J.

CODRINGTON  
J.