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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIE SMITH,

Defendant and Appellant.

F063182

(Super. Ct. No. F11901119)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Don Penner, Judge.

Jean M. Marinovich, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Cornell, Acting P.J., Gomes, J. and Kane, J.

On May 4, 2011, appellant, Willie Smith, pled no contest to possession of a firearm by a felon (former Pen. Code, § 12021, subd. (a)(1)¹ (now § 29800, subd. (a)(1); Stats. 2010, ch. 711, § 6)) and admitted a “strike” allegation, after the court stated an indicated sentence of 32 months.² On June 3, 2011, appellant requested that the court strike his strike. The court denied the request and imposed a 32-month prison term, consisting of the 16-month lower term on the instant offense, doubled pursuant to the three strikes law (§§ 667, subd. (e)(1); 1170.12, subd. (c)(1)). Appellant did not request, and the court did not issue, a certificate of probable cause (§ 1237.5).

Appellant’s appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, with citations to the record, raises no issues, and asks that this court independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) Appellant has not responded to this court’s invitation to submit additional briefing.

The report of the probation officer indicates the following: At approximately 9:27 p.m., on February 27, 2011, two officers on patrol saw a car parked with its running lights on. The officers decided to check on the welfare of the car’s occupants. The officer who was driving stopped the patrol vehicle, at which point appellant got out of the car. The officers told appellant the reasons for the contact, and appellant provided the officers with a California Identification Card bearing his name. The officers checked and determined appellant’s driver’s license was suspended or revoked. Thereafter, the officers walked to the driver’s side of the vehicle and, looking into the car, saw a handgun in plain sight inside of the car. The officers placed appellant under arrest. Subsequently, police also found appellant’s cell phone in the car. They checked it and found that appellant had received text messages indicating he had purchased the gun.

¹ All statutory references are to the Penal Code.

² We use the term “strike,” in its noun form, as a synonym for “prior felony conviction” within the meaning of the “three strikes” law (§§ 667, subds. (b)-(i); 1170.12), i.e., a prior felony conviction or juvenile adjudication that subjects a defendant to the increased punishment specified in the three strikes law.

The gun was unloaded and, because it had no firing pin, inoperable. In 1995, appellant suffered a conviction of a felony in the commission of which he personally used a firearm.

Following independent review of the record, we have concluded that no reasonably arguable legal or factual issues exist.

DISPOSITION

The judgment is affirmed.