

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

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

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID SCOTT WAGGLE,

Defendant and Appellant.

F063334

(Super. Ct. No. 1403079)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Stanislaus County. Thomas D. Zeff, Judge.

Deborah Prucha, under appointment by the Court of Appeal, for Defendant and Appellant.

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

-ooOoo-

* Before Levy, Acting P.J., Kane J., and Detjen, J.

Appellant, David Scott Waggle, pled no contest to being a felon in possession of a firearm (Pen. Code, § 12021, subd. (a)(1))¹ and admitted a prior prison term enhancement (§ 667.5, subd. (b)) and allegations that he had a prior conviction within the meaning of the three strikes law (§ 667, subds. (b)-(e)). Following independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we affirm.

FACTUAL AND PROCEDURAL HISTORY

On May 13, 2009, Waggle was driving a van when he was stopped by a Stanislaus County sheriff's deputy because the van's registration was expired and the van matched the description of a van that was involved in a burglary. During the stop, the deputy determined that Waggle's license had been suspended for failure to pay child support. An inventory search of the van and its contents uncovered a .22-caliber revolver in a backpack in the van.

On April 12, 2011, the district attorney filed a first amended complaint charging Waggle with being a felon in possession of a firearm (count 1), an on-bail enhancement (§ 12022.1), two prior prison term enhancements, and having three prior convictions within the meaning of the three strikes law.

On July 29, 2011, Waggle pled no contest to the possession of a firearm offense and admitted one prior prison term enhancement and one prior strike conviction in exchange for a stipulated, aggregate term of seven years and the dismissal of the remaining allegations and an unrelated case with a *Harvey*² waiver. Waggle also waived his appellate rights as part of the agreement.

On September 8, 2011, the court sentenced Waggle per his plea agreement to an aggregate seven-year term, the aggravated three-year term on his possession of a firearm

¹ All further statutory references are to the Penal Code.

² *People v. Harvey* (1979) 25 Cal.3d 754.

conviction, doubled to six years because of Waggle's prior strike conviction, and a consecutive one-year prior prison term enhancement.

Waggle's appellate counsel has filed a brief which summarizes the facts, with citations to the record, raises no issues, and asks this court to independently review the record. (*People v. Wende, supra*, 25 Cal.3d 436.) Waggle has not responded to this court's invitation to submit additional briefing.

Following an independent review of the record we find that no reasonably arguable factual or legal issues exist.

DISPOSITION

The judgment is affirmed.