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

THE PEOPLE,

Plaintiff and Respondent,

v.

MAURICE LAFAY FIELDS,

Defendant and Appellant.

F069103

(Super. Ct. No. F13906235)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Fresno County. W. Kent Hamlin, Judge.

Gillian Black, under appointment by the Court of Appeal, for Defendant and Appellant.

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

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\* Before Levy, Acting P.J., Poochigian, J. and Franson, J.

Maurice Lafay Fields pled no contest to one count of assault by means of force likely to produce great bodily injury, admitted he had suffered a prior conviction that constituted a strike within the meaning of Penal Code section 667, subdivisions (b)(i), and had served a prior prison term within the meaning of Penal Code section 667.5. In exchange, the prosecution agreed to dismiss several charges and enhancements, and also agreed the maximum sentence that could be imposed was eight years. The trial court sentenced Fields to an eight-year term. Fields filed a notice of appeal, and the trial court granted his request for a certificate of probable cause.

Appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 asserting that, after reviewing the file, she could not identify any arguable issues in the case. By letter dated November 26, 2014, we invited Fields to inform us of any issues he would like us to consider. Fields responded by filing a supplemental brief in which he raised two issues.

After reviewing the entire file, we find no merit to the issues raised by Fields and no other arguable issues. Accordingly, we affirm the judgment.

#### **FACTUAL AND PROCEDURAL SUMMARY**

The first amended information charged Fields with inflicting corporal injury to a cohabitant (Pen. Code, § 273.5, subd. (a)),<sup>1</sup> assault by means likely to produce great bodily injury (§ 245, subd. (a)(4)), and making a criminal threat (§ 422). Counts one and two alleged that Fields inflicted great bodily injury upon the victim within the meaning of section 12022.7, subdivision (e). The information also alleged Fields suffered a prior conviction that constituted a strike within the meaning of section 667, subdivisions (b)–(i), and four prior convictions that resulted in prison sentences within the meaning of section 667.5.

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<sup>1</sup> All statutory references are to the Penal Code unless otherwise stated.

After the matter was assigned to a department for trial, Fields accepted the prosecutor's plea offer, which required him to plead to the assault count, admit the great bodily injury enhancement, admit one prison prior, and admit a prior conviction that constituted a strike within the meaning of section 667, subdivisions (b)–(i). In exchange, the prosecutor agreed to dismiss the remaining charges and enhancements and agreed the maximum to which Fields could be sentenced was eight years. Fields signed a plea agreement reflecting these terms, then entered pleas consistent with the agreement.

At the sentencing hearing, which occurred two months later, Fields moved to withdraw his plea. The basis for the motion was an assertion he had located “several witnesses that would like to go to trial with me as far as based on the fact that all this is based on lies, you know what I mean. At first I couldn't prove it because I didn't have any witnesses, but now I have the witnesses. They're willing to come to trial.” When again asked why he wished to withdraw his plea, Fields responded, “Because I have witnesses and I was – I just made the wrong decision. I didn't – I wasn't thinking clearly.” When asked why the witnesses weren't available for the original trial, Fields simply responded that the investigator could not locate them. The trial court denied the motion concluding Fields had failed to establish good cause to withdraw his plea.

Fields also filed two motions pursuant to *People v. Marsden* (1970) 2 Cal.3d 118 (*Marsden*). The first was filed approximately two weeks before the change in plea, and the second was filed the same day he changed his plea. This second motion was filed in the morning shortly before the lunch recess, and Fields changed his plea when court resumed immediately after the lunch recess. Both motions were similar. Fields felt his attorney had not done an adequate investigation and had improperly restricted his access to an investigator. He referred to witnesses who would help him win the case, but was not certain what evidence they could provide. He wanted an attorney that would follow his orders without question. Defense counsel explained the information provided by

Fields for these witnesses was either incorrect, or the witnesses were uncooperative. Two different judges concluded defense counsel was qualified and prepared to try the case.

The trial court then sentenced Fields to the agreed upon lid of eight years by imposing an aggravated sentence of four years on the assault count and doubling that term because of the strike prior. It also struck the sentence on the great bodily injury enhancement and the prison prior. Fields filed a notice of appeal along with a request for a certificate of probable cause. The trial court granted the request and issued the certificate of probable cause.

### **DISCUSSION**

Fields filed a four-page, single spaced supplemental brief which is difficult to understand. It appears Fields first argument is that he was compelled by defense counsel to accept the plea bargain. The record does not support this argument. In both *Marsden* hearings, Fields complained that defense counsel “wants me to take a deal.” Defense counsel responded that she never told him to take a deal, but instead had merely conveyed the offer made by the prosecutor, as well as his exposure if convicted. In addition, she advised Fields of the weaknesses in his case. Defense counsel also assured the trial court she was ready for trial.

It is apparent from these two hearings that Fields is dissatisfied because defense counsel was truthful with him and advised him he would have a difficult time winning this case. She also advised him of the offer made by the prosecutor. These facts do not suggest anything untoward occurred, and are not grounds for reversal.

In addition to the *Marsden* hearings, the trial court explained the consequences of the plea to Fields, and then advised him, “Now another thing I want to make clear is the D.A.’s got a witness already on the way, or at least they’ve paid for that witness to be here and they’re ready to go, and the Court’s available to hear the case. So what I don’t anticipate is that you’re going to go back to the jail and somebody’s gonna say, why did you take that deal, and you’re gonna have second thoughts and then want to come back

here and withdraw your plea in a month, because at that time they won't have that witness, the witness will be gone, and the People will be in a much weaker position to try this case. So if you have any questions about this deal, about the rights you are giving up, about the likely outcome here, about the possible exposure at trial, any of the facts that might be presented at trial, and all the reasons why you might choose to take this eight-year lid instead of going to trial, you should ask those questions now and have those questions answered now because I don't intend to hear from you later, well, I decided that wasn't a very good deal. Understood?" Fields indicated he understood and stated he did not have any questions. The trial court's admonishment to Fields establishes he was fully aware of his rights and chose to accept the plea bargain instead of risking a sentence of over 20 years if he was convicted of all counts.

This was not a situation where Fields entered a plea shortly after the charges were filed. The complaint was filed on July 3, 2013. On October 31, 2013, Fields withdrew his waiver of his right to a speedy trial, thus setting the case on a specific track for trial. Trial was tentatively for November 14, 2013. On November 7, 2013, the trial date was reset for December 16, 2013. Fields entered his plea on December 17, 2013. Prior to doing so, Fields asked for time to talk to his parents and suggested his mother was attempting to gather the money to hire private counsel. The trial court, recognizing the short amount of time left to comply with Fields speedy trial right, explained to Fields that he either needed to have new counsel present to assume his representation, proceed to trial with appointed counsel, proceed as a pro per litigant, or enter a plea. The trial court also explained that Fields had only until that afternoon to make a decision, because the jury panel would be present at that time to start the trial.

We suspect that Fields's complaint revolves around these facts. However, there is no ground for complaint. Fields was in custody for over five months before he appeared for trial, and he was aware of the impending trial date for over two months. The prosecutor's offer had been made months before and had not changed. Fields had

adequate time to retain private counsel, if he chose to do so, adequate time to decide whether to proceed pro per, adequate time to discuss the matter with his family, adequate time to consider the benefits of accepting the plea bargain, and adequate time to consider the risks of rejecting the plea offer. Simply stated, there is no basis to complain he was forced into making a decision at the last minute simply because he failed to make a decision for the preceding five months. These facts do not support a finding of reversible error.

Fields's second argument appears to be an assertion that Fields was erroneously informed, or did not understand, that the charge to which he was pleading constituted a strike within the meaning of section 667, subdivisions (b)–(i). Once again, the record does not support this argument. The plea agreement form signed and initialed by Fields indicates the consequences of entering into the plea include prohibition of possession or owning firearms, and “a strike.” Prior to accepting the plea, the trial court went through the terms of the agreement with Fields, including informing him that the count to which he agreed to plead “would constitute a second strike conviction, so in the future if you pick up one of the many qualifying crimes then you could receive up to 25 years to life for that new felony charge as a result of this strike and your prior strike.” Fields indicated he did not have any questions about the possible consequences of the plea. Accordingly, we find no merit to the contention that he was not informed this charge constituted a strike for the purpose of future convictions.

Field's supplemental brief could be read to suggest the trial court erred by suggesting the denial of his motion to withdraw his plea was not an appealable issue. Our review of the record does not reveal any such statement by the trial court, but instead indicates the trial court informed Fields he could appeal from the denial of the motion to withdraw his plea. Moreover, even if the court misspoke, we have reviewed the record and the trial court did not err in its ruling on the motion. Section 1018 permits a defendant to withdraw his plea only on a showing of good cause. This showing must be

made by clear and convincing evidence. (*People v. Nance* (1991) 1 Cal.App.4th 1453, 1456.) Generally, pleas are not set aside simply because a defendant changes his or her mind. (*In re Vargas* (2000) 83 Cal.App.4th 1125, 1143.) Fields did not present good cause for withdrawing his plea, instead stating, in essence, he had changed his mind. Finally, the trial court granted Fields a certificate of probable cause which required us to address the merits of his appeal, including his claim that the trial court should have granted his motion to withdraw his plea.

### **DISPOSITION**

The judgment is affirmed.