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

THE PEOPLE,

Plaintiff and Respondent,

v.

EDDIE ANTHONY SAINZ,

Defendant and Appellant.

F071402

(Super. Ct. No. F12908312)

**OPINION**

**THE COURT\***

APPEAL from an order of the Superior Court of Fresno County. John F. Vogt,  
Judge.

Steven A. Torres, 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 Gomes, Acting P.J., Detjen, J. and Franson, J.

Appointed counsel for defendant Eddie Anthony Sainz asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Counsel filed an opening brief that sets forth the facts of the case. Defendant was advised of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. He responded with a letter, stating that he does not have a probable cause certificate, should have been given a split sentence because his priors were stricken, and should have been granted probation and a program according to “the deal [he] signed.” He says he would like to be paroled as soon as possible. Finding no arguable error that would result in a disposition more favorable to defendant, we affirm the judgment.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

On an unknown date, defendant pled no contest to seven counts. On October 16, 2014, the trial court sentenced defendant to three years in prison as follows: three years on count 1 (Pen. Code, § 29800, subd. (a)(1), unlawful possession of firearm);<sup>1</sup> three concurrent years on count 2 (§ 29800, subd. (a)(1)); three concurrent years on count 3 (§ 29800, subd. (a)(1)); three concurrent years on count 4 (§ 29800, subd. (a)(1)); three concurrent years on count 5 (§ 33215, manufacture, import, sale, supply or possession of a short-barreled rifle or short-barreled shotgun); three concurrent years on count 6 (§ 33215); and three concurrent years on count 7 (§ 30305, subd. (a), unlawful possession of ammunition). The court imposed, then stayed, three one-year terms for prior prison term enhancements (§ 667.5, subd. (b)). The court ordered defendant to pay a \$2,700 restitution fine (§ 1202.4, subd. (b)); a suspended \$2,700 parole revocation fine (§ 1202.45); a \$40 court operations assessment fine on each count (§ 1465.8); and a \$30 conviction assessment fine on each count (Gov. Code, § 70373).

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

On December 17, 2014, defendant filed a petition for resentencing pursuant to Proposition 47, the Safe Neighborhoods and Schools Act (§ 1170.18).

On February 10, 2015, the trial court denied the petition for resentencing because defendant's convictions did not qualify for resentencing under Proposition 47.

On April 13, 2015, defendant filed a notice of appeal.

### **DISCUSSION**

On November 4, 2014, California voters enacted Proposition 47, and it went into effect the next day. (*People v. Rivera* (2015) 233 Cal.App.4th 1085, 1089.)

“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).” (*Id.* at p. 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 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. (§ 1170.18, subd. (a).)” (*People v. Rivera, supra*, 233 Cal.App.4th at p. 1092.) The firearm offenses for which defendant was convicted are not among the offenses listed in section 1170.18. Therefore, the trial court properly denied defendant's petition for resentencing of these felonies.

Furthermore, we see no other arguable error that would result in a disposition more favorable to defendant.

### **DISPOSITION**

The order is affirmed.