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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

ERIC CHARLES ALEXANDER,

Defendant and Appellant.

G053219

(Super. Ct. No. 14WF2214)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County,  
Sheila F. Hanson, Judge. Affirmed.

Eric Charles Alexander, in pro. per.; and Richard Schwartzberg, under  
appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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## INTRODUCTION

Defendant Eric Charles Alexander pleaded guilty to conspiracy to commit second degree robbery, second degree robbery, and receiving stolen property. Appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), setting forth the facts of the case and requesting we review the entire record. Pursuant to *Anders v. California* (1967) 386 U.S. 738 (*Anders*), appointed counsel identified potential issues to assist us in our independent review. We provided defendant 30 days to file written argument on his own behalf; he did so.

We have examined the entire record, appointed counsel's *Wende/Anders* brief, and defendant's supplemental brief; we have found no reasonably arguable issue. (*Wende, supra*, 25 Cal.3d 436.) We therefore affirm.

## BACKGROUND

Defendant was charged in an information with one count each of conspiracy to commit a robbery (Pen. Code, §§ 182, subd. (a)(1) & 211), second degree robbery (*id.*, §§ 211, 212.5, subd. (c)), and receiving stolen property (*id.*, § 496, subd. (a)). The information alleged defendant had suffered two prior serious felony convictions within the meaning of Penal Code section 667, subdivision (a)(1), and two prior serious and violent felony convictions within the meaning of section 667, subdivisions (d) and (e)(2)(A) and Penal Code section 1170.12, subdivisions (b) and (c)(2)(A).

Defendant filed a motion seeking the reinstatement of a 12-year indicated sentence plea offer. Defendant argued that his prior trial counsel had been ineffective in advising him with regard to a prior plea bargain offer that resulted in his rejecting it. He argued that had he been properly advised, he would have accepted it.

On January 28, 2016, the trial court denied the motion. That same afternoon, defendant agreed to plead guilty to the charged offenses and admitted all prior

conviction allegations contained in the information. Defendant made the following factual statement as the basis for his guilty plea: “In Orange County, California, on or about 6-18-12 to 6-21-12, I knowingly, willfully an[d] unlawfully conspired together with Brian Lee to commit the crime of robbery and committed at least one overt act pursuant to and for the purpose of carrying out the purpose of the conspiracy, to wit, agreeing to drive Brian Lee to commit a robbery, communicating via text message with Brian Lee regarding the use of gloves during the robbery and when to commit the robbery and arranging to have an additional person to commit the robbery. On 6-21-12, I took the personal property of Jane Doe by force and fear and unlawfully sold jewelry stolen from JB Jewelry knowing that the property had been stolen.” The trial court sentenced defendant to a 20-year prison term.

Defendant appealed. Defendant’s notice of appeal included a request for a certificate of probable cause, stating: “The defendant was denied effective assistance of counsel during the plea bargaining stage which resulted in the court[’]s withdrawal of a 12 year offer which resulted in defendant’s 20 year sentence or in the alternative defendant was denied due process when the court refused to reinstate the indicated 12 year sentence.” The trial court denied defendant’s request for a certificate of probable cause.

#### ANALYSIS OF POTENTIAL ISSUE

Defendant filed a supplemental brief, in which he argues that he never rejected the 12-year indicated sentence plea offer that had been extended to him in May 2015, and was reoffered to him on December 3, 2015. He stated that when he decided to accept the offer on December 16, 2015, his lawyer informed him the offer had been withdrawn.

The trial court conducted a hearing on defendant’s motion to reinstate the 12-year indicated sentence, at which defendant testified. Following testimony and

argument, the trial court denied the motion because the court did “not believe that sufficient evidence has been demonstrated that the defendant would have accepted the offer on those prior occasions” and did “not believe that there has been a demonstration that counsel was ineffective in any stretch of the imagination.”

The record, including, specifically, defendant’s testimony, supports the trial court’s finding that defendant never attempted to accept the 12-year indicated sentence plea offer until December 16, at which time it had been taken off the table. Defendant testified that although he did not reject any such offer, he wanted the case investigated further.

Defendant has not raised any other issues in his supplemental brief. We have reviewed the record in accordance with our obligations under *Wende* and *Anders*, and we find no arguable issues on appeal. (*People v. Kelly* (2006) 40 Cal.4th 106, 110, 120, 124.)

#### DISPOSITION

The judgment is affirmed.

FYBEL, J.

WE CONCUR:

O’LEARY, P. J.

THOMPSON, J.