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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

MATTHEW LEON SICARD,

Defendant and Appellant.

H037731

(Santa Clara County

Super. Ct. Nos. C1104514, C1110337)

I. INTRODUCTION

In case No. C1104514, defendant Matthew Leon Sicard pleaded no contest to two felony counts of false personation (Pen. Code, § 529).¹ Additionally, defendant admitted the allegations that he had one prior violent or serious felony conviction (§ 667, subd. (b)-(i)) that also qualified as a strike within the meaning of the Three Strikes law (§§ 667.5 subd. (b)-(i), 1170.12) and he had served four prior prison terms (§ 667.5, subd. (b)).

In case No. C1110337, defendant pleaded no contest to one felony count of failing to register as a sex offender (§ 290.015, subd. (a)) and admitted the allegation that he had one prior violent or serious felony conviction (§ 667, subd. (b)-(i)) that also qualified as a strike within the meaning of the Three Strikes law (§§ 667.5 subd. (b)-(i), 1170.12).

¹ All statutory references hereafter are to the Penal Code unless otherwise indicated.

In accordance with the plea agreement resolving both cases, the trial court imposed a total term of five years four months in the state prison. Defendant filed a timely notice of appeal, and we appointed counsel to represent him in this court. Appointed counsel has filed an opening brief that states the case and facts but raises no issue. We notified defendant of his right to submit written argument on his own behalf within 30 days. The 30-day period has elapsed and we have received no response from defendant.

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 and *People v. Kelly* (2006) 40 Cal.4th 106, we have reviewed the entire record. Following the California Supreme Court's direction in *People v. Kelly, supra*, at page 110, we provide "a brief description of the . . . procedural history of the case, the crimes of which the defendant was convicted, and the punishment imposed."

II. BACKGROUND

The facts underlying defendant's charges were not included in the record on appeal, and therefore our background summary is limited to the relevant procedural history.

In case No. 1104514, the complaint filed on April 7, 2011, charged defendant with two counts of false personation exposing the victim to liability (§ 529, counts 1 & 3) and two felony counts of using personal identifying information without authorization (§ 530.5, subd. (a); counts 2 & 4). The complaint further alleged that defendant had one prior violent or serious felony conviction (§ 667, subd. (b)-(i)) that also qualified as a strike within the meaning of the Three Strikes law (§§ 667.5 subd. (b)-(i), 1170.12) and he had served four prior prison terms (§ 667.5, subd. (b)). The victim in all counts was defendant's brother, Charles Sicard.

In case No. 1110337, the complaint filed on July 1, 2011, charged defendant with one felony count of failure to register as a sex offender (§ 290.015, subd. (a); count 1). The complaint further alleged that defendant had one prior violent or serious felony

conviction (§ 667, subd. (b)-(i)) that also qualified as a strike within the meaning of the Three Strikes law (§§ 667.5 subd. (b)-(i), 1170.12) and he had served four prior prison terms (§ 667.5, subd. (b)).

On September 20, 2011, the date set for the preliminary hearing, defendant entered into a plea agreement in both cases in exchange for a total term of five years four months. In case No. 1104514, defendant pleaded no contest to both counts of false personation (§ 529, counts 1 & 3) and admitted the allegations that he had one prior violent or serious felony conviction (§ 667, subd. (b)-(i)) that also qualified as a strike within the meaning of the Three Strikes law (§§ 667.5 subd. (b)-(i), 1170.12) and he had served four prior prison terms (§ 667.5, subd. (b)). In case No. 1110337, defendant pleaded no contest to failure to register as a sex offender (§ 290.015, subd. (a); count 1) and admitted the allegation that he had one prior violent or serious felony conviction (§ 667, subd. (b)-(i)) that also qualified as a strike within the meaning of the Three Strikes law (§§ 667.5 subd. (b)-(i), 1170.12),

At the sentencing hearing held on December 2, 2011, defendant informed the trial court that although he did not intend to proceed with a *Marsden* motion (*People v. Marsden* (1970) 2 Cal.3d 118), he wanted to withdraw his plea in case No. 1104514. Defense counsel advised the court that counsel had not found any grounds for withdrawing the plea; however, defendant had “filed appropriate papers with the court” in connection with his request to withdraw his plea. Defendant also sought a “60-day continuance so that he can conduct additional investigation regarding the withdrawal of his plea.”

The trial court stated that the court’s review of defendant’s papers indicated that defendant was raising a speedy trial issue. The prosecutor advised the court that defendant had waived his right to a speedy preliminary hearing in both cases. Thereafter, the court denied the motion to withdraw the plea and the motion for a 60-day

continuance, finding that there were no grounds to continue the matter for further investigation and no grounds to withdraw the plea.

The trial court then imposed the agreed-upon total term of five years four months, calculated as follows: (1) In case No. 1104514, the base term of 32 months on count 1 (the low term of 16 months, doubled due to the prior strike conviction) and a consecutive term of 16 months on count 3 (one-third the middle term of two years, doubled due to the prior strike conviction); and (2) In case No. 1110337, a consecutive term of 16 months (one-third the middle term of two years, doubled due to the prior strike conviction) on count 1. The court also struck the allegations in case No. 1104514 that defendant had served four prior prison terms (§ 667.5, subd. (b)).

In addition, in case No. C1104514 the trial court ordered defendant to pay a \$1,600 restitution fine (§ 1202.4, subd. (b)(2)) and suspended the imposition of a \$1,600 parole revocation restitution fine (§ 1202.45). The court also ordered payment of a court security fee of \$60 (§ 1465.8, subd. (a)(1)), a criminal conviction assessment fee of \$60 (Gov. Code, § 70373), and a criminal justice administration fee of \$129.75 (Gov. Code, § 29550.2). The court granted defendant presentence credit of 372 days (186 actual days and 186 days pursuant to section 4019).

In case No. C1110337, the trial court ordered defendant to pay a \$200 restitution fine (§ 1202.4, subd. (b)(2)) and suspended the imposition of a \$200 parole revocation restitution fine (§ 1202.45). The court also ordered payment of a court security fee of \$40 (§ 1465.8, subd. (a)(1)) and a criminal conviction assessment fee of \$30 (Gov. Code, § 70373). The court waived an additional criminal justice administration fee (Gov. Code, § 29550.2).

III. APPEAL

Defendant filed a request for a certificate of probable cause and a notice of appeal on December 6, 2011. The trial court granted defendant's request for a certificate of probable cause on December 7, 2011. Having carefully reviewed the entire record, we

conclude that there are no arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d at pp. 441-443.)

IV. DISPOSITION

The judgment is affirmed.

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

ELIA, ACTING P.J.

MÁRQUEZ, J.