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

THE PEOPLE,

Plaintiff and Respondent,

v.

KENNETH CHARLES CHAPMAN,

Defendant and Appellant.

H038013

(Santa Clara County

Super. Ct. No. CC790084)

Defendant Kenneth Charles Chapman appeals from a judgment entered following the issuance of the remittitur in his prior appeal in case No. H035443.¹ The appeal is based solely on grounds of sentencing error. We find no error and affirm.

Following a jury trial, defendant was found guilty of two counts of second degree robbery (Pen. Code, §§ 211, 212.5, subd. (c) - counts one and two)² and two counts of assault with a deadly weapon (§ 245, subd. (a) - counts three and four). The jury also found that defendant committed both robberies with a deadly weapon (§ 12022, subd. (b)(1)) and that defendant personally inflicted great bodily injury on the victims of both robberies and assaults (§§ 12022.7, subd. (a)). In a bifurcated proceeding, the trial court found true the allegations that defendant had five prior strike convictions (§ 667, subd. (b)) and three prior serious felony convictions (§ 667, subd. (a)), and had served

¹ This court has taken judicial notice of its record and opinion in case No. H035443.

² All further statutory references are to the Penal Code.

four prior prison terms (§ 667.5, subd. (b)). The trial court sentenced defendant to a total term of 94 years to life.

When defendant appealed from the judgment, he argued, among other things, that the trial court erred in calculating the minimum term of the indeterminate life sentence on counts one and two as 28 years. The trial court calculated the minimum term under section 1170.12, subdivision (c)(2)(A)(iii). Defendant argued that the trial court erred by imposing both a five-year serious felony enhancement (§ 667, subd. (a)) and a one-year prior prison term enhancement (§ 667.5, subd. (b)) based on a single prior conviction. Relying on *People v. Jones* (1993) 5 Cal.4th 1142, this court modified the judgment to reflect that the sentence on counts one and two was 27 years to life. This court directed the trial court to prepare an amended abstract of judgment reflecting the modification and forward a copy to the California Department of Corrections and Rehabilitation. As modified, the judgment was affirmed. On remand, the trial court prepared an amended abstract of judgment reflecting a total sentence of 92 years to life. Defendant filed a timely notice of appeal.³

Appointed appellate counsel has filed an opening brief that states the case and the facts but raises no issues. Defendant has submitted written argument on his own behalf. He contends: (1) the prosecutor suppressed exculpatory evidence and thus deprived him of due process; (2) the prosecutor engaged in misconduct by inducing witnesses to give false testimony; (3) the trial court “infringed upon the defendants inalienable Fourth Amendment right to be secure in his person etc, etc.”; (4) defense counsel rendered ineffective assistance because counsel failed to present exculpatory evidence; (5) he should have been charged with petty theft; (6) the trial court erred in refusing to give self-defense instructions; (7) defense counsel rendered ineffective assistance by failing to impeach prosecution witnesses; (8) he was punished twice for the same act and

³ The underlying facts are not relevant to the present appeal.

erroneously convicted of robbery, “because at the time it was just a fight (self-defense);” (9) he was sentenced in violation of section 654; (10) the trial court erred by imposing illegal sentence enhancements; and (11) the trial court violated the plea agreement.

In the prior appeal, this court affirmed the judgment as modified. Thus, the only issue before the trial court was compliance with this court’s direction to amend the abstract of judgment. None of defendant’s contentions relate to this narrow issue. Instead, defendant is attempting to relitigate his prior appeal. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we have reviewed the entire record and have concluded that there are no arguable issues on appeal.

The judgment is affirmed.

Mihara, J.

WE CONCUR:

Premo, Acting P. J.

Márquez, J.