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

THE PEOPLE,

Plaintiff and Respondent,

v.

MARIO NOLASCO FERNANDEZ,

Defendant and Appellant.

H038848

(Santa Clara County

Super. Ct. No. 151233)

Mario Nolasco Fernandez appeals from an order extending his commitment as a mentally disordered offender. (Pen. Code, § 2970.) On March 14, 2012, the Santa Clara County District Attorney filed a petition pursuant to Penal Code section 2970, requesting a one-year extension of appellant's involuntary commitment to Napa State Hospital where appellant resides. According to the petition, appellant was convicted of a violation of Penal Code section 288 subdivision (a) in 1991 and served a three year prison term. He did not do well on parole. On May 20, 1997, he was admitted to Atastadero State Hospital as a mentally disordered offender pursuant to Penal Code section 2962. The petition also alleged that appellant suffered from a severe mental disorder that was not in remission and could not be kept in remission without continued confinement. The appellant was not present at any court proceeding until his trial date. Appellant's counsel waived a jury trial on his behalf and the matter was set for court trial. At trial, the court heard testimony from appellant's psychiatrist, Dr. Eyerman. The doctor testified that

appellant suffers from schizophrenia and remains a danger to others. The court found the petition true, and ordered appellant's commitment extended. This timely notice of appeal ensued.

On appeal, we appointed counsel to represent appellant in this court. Appointed counsel filed an opening brief which states the case and the facts but raises no specific issues. (*Conservatorship of Ben C.* (2007) 40 Cal.4th 529, 543-544 (*Ben C.*); *People v. Taylor* (2008) 160 Cal.App.4th 304.) We notified appellant of his right to submit written argument in his own behalf within 30 days. Thirty days have elapsed and we have received nothing from the appellant.¹

The appellant having failed to raise any issue on appeal, we dismiss the appeal as abandoned. (*Ben C., supra*, 40 Cal.4th 529.)

DISPOSITION

The appeal is dismissed as abandoned.

¹ Although we will not retain this appeal, we note that the record here is not entirely clear as to whether defendant was advised of his right to a jury trial and the circumstances of his attorney's waiver of that right on his behalf. (*People v. Blackburn* (2013) 215 Cal.App.4th 809.)

RUSHING, P.J.

WE CONCUR:

PREMO, J.

ELIA, J.