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

THE PEOPLE,

Plaintiff and Respondent,

v.

JEROME ANTHONY MOORE,

Defendant and Appellant.

H041659

(Santa Clara County
Super. Ct. No. F1450109)

Defendant Jerome Anthony Moore appeals after pleading no contest to possession for sale of methamphetamine (Health & Saf. Code, § 11378) and possession of a firearm by a felon (Pen. Code, § 29800, subd. (a)(1)),¹ and admitting that he had a prior conviction for possession for sale of a controlled substance (Health & Saf. Code, § 11370.2, subd. (c)) and had served one prior prison term (§ 667.5, subd. (b)). Defendant was sentenced to four years four months in prison.

On appeal, defendant's appointed counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 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.

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

Pursuant to *People v. Wende, supra*, 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 facts and the procedural history of the case.

BACKGROUND

On February 18, 2014, defendant was charged by complaint with possession for sale of methamphetamine (Health & Saf. Code, § 11378; count 1), possession of a firearm by a felon (§ 29800, subd. (a)(1); count 2), and carrying a loaded firearm in public (§ 25850, subd. (a); count 3). The complaint further alleged that defendant was personally armed with a firearm in the commission of the offense in count 1 (§ 12022, subd. (c)), that he had a prior conviction for violating Health and Safety Code section 11378 (Health & Saf. Code, § 11370.2, subd. (c)), and that he had served one prior prison term (§ 667.5, subd. (b)).

On July 10, 2014, defendant pleaded no contest to possession for sale of methamphetamine (Health & Saf. Code, § 11378; count 1) and possession of a firearm by a felon (§ 29800, subd. (a)(1); count 2). He also admitted having a prior conviction for possession for sale of a controlled substance (Health & Saf. Code, § 11370.2, subd. (c)), and having served one prior prison term (§ 667.5, subd. (b)). Defendant entered his pleas and admissions with the understanding that he would receive a sentence of four years four months in prison. The court dismissed a separate misdemeanor case as part of the negotiated disposition. The probation officer subsequently prepared a waived referral memorandum in the felony case.²

At the sentencing hearing on September 8, 2014, the trial court imposed the lower term of 16 months for possession for sale of methamphetamine, a concurrent lower term

² The facts underlying defendant's offenses are not contained in the record on appeal, as defendant was convicted by plea.

of 16 months for possession of a firearm by a felon, and a consecutive term of three years for the prior conviction, for a total term of four years four months in prison. The court struck the punishment for the prison prior pursuant to section 1385. The trial court also struck or dismissed the remaining count and allegation. The court ordered defendant to pay various fines and fees. Defendant was granted 417 days of custody credits.

Defendant filed a notice of appeal and request for certificate of probable cause (Cal. Rules of Court, rule 8.304), but the court denied without prejudice the request for the certificate.³ We appointed counsel to represent defendant in this court.

DISCUSSION

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.)

DISPOSITION

The judgment is affirmed.

³ Defendant's notice of appeal was filed on November 12, 2014, which was 65 days after entry of judgment. (See Cal. Rules of Court, rule 8.308 (a) [notice of appeal must be filed within 60 days after rendition of judgment].) However, defendant appears to have been a self-represented prisoner at the time the notice of appeal was filed, and he apparently signed the notice of appeal on November 3, 2014, which was 56 days after entry of judgment. The record on appeal contains a copy of the envelope showing that the notice of appeal was mailed, but the postmark is cut off. We will assume that defendant's notice of appeal was timely filed under the prison-delivery rule. (See *In re Jordan* (1992) 4 Cal.4th 116, 118-120.)

BAMATTRE-MANOUKIAN, ACTING P.J.

WE CONCUR:

MIHARA, J.

MÁRQUEZ, J.