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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES EDWARD DANIELS, JR.,

Defendant and Appellant.

H041660

(Santa Clara County

Super. Ct. No. C1491928)

In a felony complaint filed on September 2, 2014, the Santa Clara County District Attorney charged James Edward Daniels Jr., with one felony count of petty theft with a prior theft conviction. (Pen. Code, § 666, former subd. (b)(1).) The District Attorney alleged that Daniels had prior convictions for serious or violent felonies—residential burglary (Pen. Code, § 459, 460), terrorist threats (Pen. Code, § 422) and attempted criminal threats (Pen. Code, § 664, 422).

On September 8, 2014, pursuant to Penal Code section 17, the court reduced the charge to misdemeanor petty theft with a prior. Thereafter, Daniels pleaded no contest to the misdemeanor charge and admitted one prior conviction allegation for residential burglary. The court suspended imposition of sentence. The court placed Daniels on formal probation for a period of three years and imposed a county jail term of one year, which the court stated was “modifiable” after nine months. The court imposed various fines, fees, and assessments and awarded Daniels credit for time served of 21 days.

On November 6, 2014, Daniels filed a notice of appeal from the judgment entered on September 8, 2014.

On November 6, 2014, pursuant to Proposition 47 (the Safe Neighborhoods and Schools Act, as approved by voters, Gen. Elec. (Nov. 4, 2014)), the District Attorney moved the court to dismiss the Penal Code section 666 charge and to amend the complaint to add a new count (count 2), misdemeanor petty theft (Pen. Code, §§ 484, 488). The court granted the motion. Daniels entered a no contest plea to the newly added count 2. On the motion of defense counsel, in the interest of justice, the court set aside Daniels's plea to the Penal Code section 666 charge and vacated the judgment.

On December 19, 2014, the court denied probation and ordered that Daniels serve six months in county jail. The court awarded Daniels 180 days' credit for time served and deemed his sentence served. The court re-imposed the fines and fees that the court had imposed on September 8, 2014, at the original sentencing hearing.

Daniels did not file a notice of appeal from the judgment entered on December 19, 2014. Since defendant appealed from a judgment that was vacated by the trial court on November 6, 2014, on August 13, 2015, on this court's own motion we granted defendant leave to file a belated notice of appeal from the December 19, 2014 judgment.

Daniels's appointed counsel has filed an opening brief in which no issues are raised. Counsel asks this court to conduct an independent review of the record as required by *People v. Wende* (1979) 25 Cal.3d 436. Counsel has declared that Daniels was notified that no issues were being raised by counsel on appeal, and that he could file a supplemental brief with this court.

On May 5, 2015, by letter, we notified Daniels of his right to submit written argument on his own behalf within 30 days. That time has passed and we have not received a response from Daniels.

No factual basis for Daniels's no contest plea appears in the record.

Upon our independent review of the record, we conclude there are no meritorious issues to be argued, or that require further briefing on appeal. The fines and fees imposed are supported by the law.

*Disposition*

The judgment is affirmed.

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ELIA, J.

WE CONCUR:

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RUSHING, P. J.

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WALSH, J.\*

*The People v. Daniels*  
H041660

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\*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.