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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE, Plaintiff and Respondent, v. JOSEPH WARNER JACKSON, Defendant and Appellant.	D055553 (Super. Ct. No. SCD 218142)

APPEAL from a judgment of the Superior Court of San Diego County, Richard Whitney, Judge. Affirmed.

Joseph Warner Jackson entered a negotiated guilty plea to selling cocaine base (Health & Saf. Code, § 11352, subd. (a)) and admitted a strike (Pen. Code, § 667 subds. (b)-(i)), five prior prison terms (Pen. Code, § 667.5, subd. (b)) and a prior Health and Safety Code section 11352 conviction (Health & Saf. Code, § 11370.2, subd. (a)). The court denied Jackson's requests to dismiss the strike and for a California Rehabilitation Center (CRC) commitment. It dismissed the Health and Safety Code section 11370.2,

subdivision (a) enhancement and the prison priors. The court sentenced Jackson to six years in prison: (twice the three-year lower term). Jackson appeals. We affirm.

BACKGROUND

Jackson helped sell a small but usable amount of cocaine base to an undercover police officer.

DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel lists, as possible but not arguable issues, (1) whether Jackson was properly advised of rights he waived by admitting the prior felony; (2) whether his plea is constitutionally valid; (3) whether the court erred by finding Jackson ineligible for CRC; (4) whether his waiver of his constitutional right to a jury trial was coerced by the threat of an increased sentence if he proceeded to trial; (5) whether the court abused its discretion by failing to dismiss the strike; (6) whether the court erred by denying Jackson custody credit; (7) whether using a prior serious felony to double the sentence violated the ex post facto clause; (8) whether the court erred by denying Jackson's *Marsden* motions (*People v. Marsden* (1970) 2 Cal.3d 118); (9) whether his sentence constitutes cruel and unusual punishment; and (10) whether trial counsel was ineffective.

We granted Jackson permission to file a brief on his own behalf. He has responded with the following contentions. He is an addict and a crack cocaine user. He

was under the influence at the time of the crime. He had no affiliation with the co-defendant aside from buying crack cocaine from him for personal use. An undercover agent stated that at no time did Jackson sell or have possession of any controlled substance. Jackson was not advised and was manipulated into signing the plea agreement. He was misrepresented and wrongfully convicted. This court should reconsider his sentence.

Jackson's guilty plea precludes a challenge to the underlying facts. (*People v. Wallace* (2004) 33 Cal.4th 738, 750.) Because he did not obtain a certificate of probable cause, he cannot contest the validity of the plea. (Pen. Code, § 1237.5.) Furthermore, the record shows Jackson's guilty plea was intelligent and voluntary. (*Boykin v. Alabama* (1969) 395 U.S. 238, 242-243.) The record does not show any ineffectiveness of trial counsel (*Strickland v. Washington* (1984) 466 U.S. 668, 687-691) or any infirmity in the sentence.

A review of the record pursuant to *People v. Wende*, *supra*, 25 Cal.3d 436 and *Anders v. California*, *supra*, 386 U.S. 738, including the possible issues listed pursuant to *Anders v. California*, *supra*, 386 U.S. 738, has disclosed no reasonably arguable appellate issues. Jackson has been competently represented by counsel on this appeal.

DISPOSITION

The judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

McDONALD, J.

IRION, J.