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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE, Plaintiff and Respondent, v. ERIC SCOTT GARRETT, Defendant and Appellant.	D056498 (Super. Ct. No. SCD216909)

APPEAL from a judgment of the Superior Court of San Diego County, David J. Danielsen, Judge. Affirmed.

By way of a negotiated disposition, Eric Scott Garrett entered a guilty plea to attempted robbery (Pen. Code,[1] §§ 211, 664) and admitted the occurrence of a prior serious felony (§§ 667, subds. (b)-(i), 1170.12, 668). As part of the plea bargain, the prosecution agreed to dismiss one count alleging Garrett was in possession of a dirk or dagger (§ 12020, subd. (a)(4)) and allegations he had three prior convictions which made

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

him ineligible for probation. The parties and the trial court also agreed to a 48-month "lid" on any prison sentence.

Prior to Garrett's plea, the trial court denied Garrett's motion under *People v. Marsden* (1970) 2 Cal.3d 118 and ordered that he be examined to determine his mental competence. (§ 1368.) The trial court found Garrett competent and Garrett thereafter entered his plea.

The trial court sentenced Garrett to the low term of 16 months on the attempted robbery conviction, which was doubled by way of his admission to the prior serious felony, for a total prison sentence of 32 months. The trial court gave Garrett 502 days' credit for time served prior to his conviction.

Garrett filed a notice of appeal and requested a certificate of probable cause. The trial court denied Garrett's request for a certificate of probable cause.

FACTS

On the evening of October 20, 2008, Garrett and a confederate, James Rivas, were intoxicated and walking around in the vicinity of Fifth Street and Broadway in downtown San Diego. As Ross Hammarstedt and Karen Buffington were walking on the south side of Broadway east of Fifth, Garrett kicked Hammarstedt in the back and demanded that Hammarstedt give Garrett Hammarstedt's wallet, money and watch. When Hammarstedt resisted by attempting to punch Garrett, Garrett and Rivas fled the immediate area. Hammarstedt and Buffington promptly reported the crime to police who in turn were able to apprehend Garrett and Rivas at another location in downtown San Diego where they

were involved in another disturbance. Rivas was found in possession of a box cutter and a knife.

DISCUSSION

Appointed appellate counsel has filed a brief setting forth the proceedings which occurred in the superior court. 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 [87 S.Ct. 1396], counsel refers to as possible, but not arguable, issues: (1) whether the court erred in finding Garrett competent to stand trial; (2) whether Garrett's waiver of a jury trial was voluntary, knowing and intelligent; and (3) the trial court abused its discretion in failing to strike Garrett's prior serious felony.

We granted Garrett permission to file a brief on his own behalf. He has not responded.

We find no reasonably arguable appellate contention with respect to the issues referred to by counsel. Moreover, a review of the entire record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 has disclosed no other reasonably arguable appellate issue. Competent counsel has represented Garrett on this appeal.

DISPOSITION

The judgment is affirmed.

BENKE, Acting P. J.

WE CONCUR:

NARES, J.

O'ROURKE, J.