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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE, Plaintiff and Respondent, v. MARIO FRANCISCO PEDRAZA, Defendant and Appellant.	G041774 (consol. w/ G041742) (Super. Ct. Nos. 07CF0285 & 07CF4030) O P I N I O N

Appeal from judgments of the Superior Court of Orange County, Thomas James Borris and Thomas M. Goethals, Judges. Dismissed.

David K. Rankin, under appointment by the Court of Appeal, for Defendant and Appellant.

No Appearance for Plaintiff and Respondent.

* * *

We appointed counsel to represent defendant Mario Francisco Pedraza on appeal. Counsel filed a brief setting forth a statement of the case. Counsel did not argue against his client, but advised the court he found no issues to support an appeal. We provided defendant 30 days to file his own written argument. That period has passed, and we have received no communication from him.

We have examined the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. In case No. G041774 (*People v. Pedraza* (Super. Ct. Orange County, 2009, No. 07CF0285)), an amended felony complaint charged defendant with recklessly evading arrest (Veh. Code, § 2800.2), receiving stolen property (Pen. Code, § 496d, subd. (a)), [1] possession of a firearm by a previously convicted felon (§ 12021, subd. (a)(1)), carrying a loaded firearm in public (§ 12031, subd. (a)(1), (a)(2)(A)), and multiple counts of second degree robbery (§ 211). The complaint also alleged defendant had personally used a firearm during all but one of the robberies (§12022.53, subd. (b)) and had previously served a prison term within the meaning of section 667.5, subdivision (b).

The evidence at the preliminary hearing reflected that in the early evening of January 20, 2007, defendant was the front seat passenger in a white Camry stolen from Lake Forest whose driver, Sabino Garcia, attempted to avoid detection by Santa Ana police officers. The men, dressed in dark clothing, beanies over their heads, and black gloves, crouched down and avoided eye contact with patrolling officers. During the 10-minute pursuit, defendant opened the passenger door and dropped a loaded revolver on the ground.

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[1] All statutory citations are to the Penal Code unless otherwise noted.

Other evidence, including surveillance videotape and eyewitnesses, implicated defendant as the person who robbed a Santa Ana motel on November 25, 2006, a liquor store and a convenience store on December 3, 2006, a gas station on December 6, 2006, another convenience store on December 9, 2006, and a gas station on January 7, 2007. He displayed or threatened to use a semiautomatic handgun in all but the November 25 robbery.

The court held defendant to answer and the prosecution filed an information on July 23, 2007. The information added a charge of possession of ammunition (§ 12316, subd. (b)(1)) and alleged defendant had served two prison terms within the meaning of section 667.5, subdivision (b).

In case No. G041742 (*People v. Pedraza* (Super. Ct. Orange County, 2009, No. 07CF4030)),[2] an amended felony complaint charged defendant with unlawful vehicle taking (Veh. Code, § 10851, subd. (a)), committed on September 3, 2006. Defendant waived a preliminary hearing and the prosecution filed an information on April 21, 2008.

On December 9, 2008, defendant pleaded guilty to all but two duplicative counts contained in the informations, and admitted the section 667.5, subdivision (b), prison term allegations. In open court, defendant acknowledged he had initialed, signed and carefully considered the guilty plea forms, understood the information conveyed on them, and discussed "all the information on these documents, including [his] constitutional rights, and . . . discuss[ed his] cases" with his attorney. He stated he understood the constitutional rights he was waiving. Defendant also stated he was pleading guilty freely and voluntarily and denied any threats or inducements beyond those mentioned on the forms. Facing a maximum sentence of over 41 years in case

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[2] We hereby consolidate the appeals for purpose of this decision.

No. 07CF0285, the form provided the court would sentence defendant to prison for 23 years. He initialed a three-page factual basis supporting the counts. In case No. 07CF4030, he agreed to accept four years and pay victim restitution.

Defendant also initialed next to the provision waiving the right "to appeal from any and all decisions and orders made in my case. . . . I waive and give up my right to appeal from my guilty plea. I waive and give up my right to appeal from any legally authorized sentence the court imposes which is within the terms and limits of this plea agreement."

On January 23, 2009, the court sentenced defendant in case No. 07CF0285 to 23 years in prison. The court imposed the aggravated five-year term for the count 7 robbery conviction (§§ 211, 212.5, subd. (c)), a 10-year enhancement for use of a firearm (§ 12022.53), a consecutive one year term (one-third midterm) for the count 8 robbery plus three years and four months (one-third midterm) for the section 12022.53, subdivision (b), firearm enhancement, a consecutive one-year term (one-third midterm) for evading arrest (Veh. Code, § 2800.2; count 1), and a consecutive one-year term (one-third midterm) for the count 6 robbery. The court imposed concurrent terms on the other counts. The court added two, one-year terms pursuant to section 667.5, subdivision (b). Defendant received custody credits totaling 845 days. The court also ordered defendant to pay a restitution fine (§ 1202.4, subd. (b)) of $200, imposed and suspended an identical parole revocation fine (§ 1202.45), and imposed a security fee (§ 1465.8) of $240. Defendant stipulated to the amount of victim restitution. He was also ordered to provide a DNA sample. (§ 296.)

In case No. 07CF4030, the court imposed a four-year term concurrent to that imposed in case No. 07CF0285. The court ordered a $20 security fee (§ 1465.8) and defendant stipulated to $2,000 in victim restitution.

On March 3, 2009, defendant appealed "based on the sentence or other matters occurring after the plea." He did not obtain a certificate of probable cause.

Counsel identifies three potential issues for our review: Whether the trial court properly advised defendant of his rights before he pleaded guilty, whether a factual basis supported defendant's guilty plea, and whether defendant received a sentence consistent with the terms of the plea agreement.

Defendant may not challenge the validity of his plea because he did not obtain a certificate of probable cause. (§ 1237.5; *People v. Cuevas* (2008) 44 Cal.4th 374; *People v. Panizzon* (1996) 13 Cal.4th 68, 83-84.) The only exceptions to the rule concern a challenge to the denial of a defendant's motion to suppress evidence under section 1538.5 and issues that arise after entry of the guilty plea that do not affect the plea's validity. (*People v. Shelton* (2006) 37 Cal.4th 759, 766.) Neither of these exceptions applies here. Moreover, nothing in the appellate record suggests defendant was not properly advised of his rights, or that the plea was otherwise invalid. The record demonstrates defendant was advised in writing and on the record in open court concerning his rights and the consequences of his plea. Both guilty plea forms contain a statement of factual basis for the charges, which defendant initialed. The sentence was legally authorized and within the terms of his plea agreement.

We discern no arguable issues. Defendant expressly waived his right to appeal, which precludes further consideration of the matter. The appeals are dismissed.

ARONSON, J.

WE CONCUR:

SILLS, P. J.

MOORE, J.