



The People v. Jamal Mosley

2012 | Cited 0 times | California Court of Appeal | August 2, 2012

P. v. Mosley CA2/1

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

Appeal dismissed.

On October 9, 2009, Jamal Mosley went to a 7-Eleven store and approached Jegden Singh, an employee of the 7-Eleven store. Mosley demanded that Singh give him money and a cellular telephone. Mosley was holding a screwdriver when he made his demands. Mosley took \$300 and a cellular telephone from Singh.

On October 10, 2009, Stephen Iascone found a cellular telephone in the grass outside his apartment. Iascone dialed a number he found in the phone and provided information about where the phone could be picked up. Someone from the sheriff's department came to retrieve the cellular telephone. When Mosley learned that Iascone had turned over the phone to the sheriff's department, Mosley told Iascone that he was going to kill Iascone and "burn the place down" (the apartment complex) with Iascone's children in it.¹

A September 14, 2010 information filed by the Los Angeles County District Attorney's Office charged Mosley with the second degree robbery of Singh (Pen. Code, § 211;² count 1), and criminal threats made to Iascone (§ 422; count 2). The information alleged that Mosley personally used a deadly weapon (the screwdriver) in the commission of the robbery, within the meaning of section 12022, subdivision (b)(1). The information also alleged that Mosley had been convicted of two prior felonies which qualified as serious or violent felonies under the "Three Strikes" law (§§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d)), and also qualified as serious felonies under section 667, subdivision (a)(1).

On September 28, 2011, Mosley waived his constitutional rights and pleaded no contest to both counts charged in the information (robbery and criminal threats). He also admitted all of the special allegations in the information, which are set forth above. The trial court sentenced him to 22 years and four months in prison. On count 1 for robbery, the court imposed the upper term of five years for the offense, doubled to 10 years under the Three Strikes law, plus a consecutive one-year term for the



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deadly weapon enhancement. On count 2 for criminal threats, the court imposed one-third the middle term, or eight months, for the offense, doubled to one year and four months under the Three Strikes law. The court also imposed two consecutive five-year terms for Mosley's prior convictions under section 667, subdivision (a)(1). The court further imposed fines and fees under sections 1202.4, subdivision (b), and 1465.8, and Government Code section 70373.³

Mosley filed a timely appeal, but did not seek or obtain a certificate of probable cause. In his Notice of Appeal, Mosley checked the box indicating that, "This appeal is based on the sentence or other matters that occurred after the plea and do not affect its validity." After examination of the record, counsel filed an opening brief raising no issues and asking this court to review the record independently pursuant to *People v. Wende* (1979) 25 Cal.3d 436. On April 12, 2012, we advised Mosley that he personally had 30 days to submit any contentions or issues he wished us to consider. We also directed his appointed counsel to send the record and opening brief to Mosley immediately. To date, we have received no response.

We have examined the entire record and are satisfied that Mosley's counsel has complied with her responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109-110; *People v. Wende*, supra, 25 Cal.3d at p. 441.) Mosley's no-contest plea and failure to obtain a certificate of probable cause limit the potential scope of his appeal to "[g]rounds that arose after entry of the plea and do not affect the plea's validity" or "[t]he denial of a motion to suppress evidence under Penal Code section 1538.5." (Cal. Rules of Court, rule 8.304(b); see § 1237.5.) The record does not demonstrate the existence of any such issue.

DISPOSITION

The appeal is dismissed.

NOT TO BE PUBLISHED.

We concur: ROTHSCILD, Acting P. J. JOHNSON, J.

1. Because there was no trial in this case, as explained below, this statement of facts is taken from the transcript of the preliminary hearing.

2. Further statutory references are to the Penal Code unless otherwise indicated.

3. At the same hearing, the trial court also sentenced Mosley to an additional and consecutive one year and four months in prison in a separate criminal case (MA050163) in which Mosley pleaded no contest to possession of marijuana for sale. That other criminal case is not before us on this appeal.

