

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yolo)

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM FREDERICK MAULTSBY,

Defendant and Appellant.

C060532

(Super. Ct. No. 08868)

On January 13, 2008, as defendant William Fredrick Maultsby left a Wal-Mart store, he set off a theft detector and was detained by an asset protection employee. Defendant removed a package of nicotine gum from his jacket. At the employee's request, defendant stepped through the detector and again set it off. Defendant removed another package of nicotine gum from his jacket. The two packages of gum were the store's merchandise and worth \$83.56. Defendant did not have a receipt.

A jury convicted defendant of petty theft (Pen. Code, § 484).¹ Prior to trial, defendant admitted a prior felony conviction for robbery in 1991 within the meaning of the Three

¹ Undesignated statutory references are to the Penal Code.

Strikes Law and admitted prior theft convictions, including the 1991 robbery, for purposes of section 666. Sentenced to state prison, defendant appeals, contending his admission to the strike prior was obtained absent complete advisements (*Boykin v. Alabama* (1969) 395 U.S. 238 [23 L.Ed.2d 274]; *In re Yurko* (1974) 10 Cal.3d 857, 863.) Defendant failed to obtain a certificate of probable cause. (§ 1237.5)

In *People v. Fulton* (2009) 179 Cal.App.4th 1230, this court recently decided that a defendant could not attack the validity of his admission of a prior prison term allegation without a certificate of probable cause. (*Id.* at p. 1237.)

Defendant makes two arguments as to why *Fulton* does not control his case.

First, he contends *Fulton* is wrongly decided. We do not agree.

Second, he contends *Fulton* is distinguishable, because in *Fulton* the admission of the prior prison term occurred in connection with a plea bargain, whereas in the instant case, there was no plea bargain. However, in *Fulton*, before discussing the plea bargain, we held, "We conclude that Penal Code section 1237.5 applies to an enhancement allegation to which a defendant has entered a plea." (*People v. Fulton, supra*, 179 Cal.App.4th at p. 1237.) Later, we said, "Further, defendant is trifling with the courts by attempting to better the bargain on appeal. [Citation.]" (*Fulton, supra*, 179 Cal.App.4th at p. 1238, italics added.) Thus, the fact that the

