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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

PHILIP JENKINS,

Defendant and Appellant.

B247487

(Los Angeles County
Super. Ct. No. BA139175)

APPEAL from an order of the Superior Court of the County of Los Angeles,
William C. Ryan, Judge. Affirmed.

California Appellate Project, Jonathan B. Steiner, Executive Director and, Larry
Pizarro for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Defendant and appellant Philip Jenkins (defendant) appealed the trial court's denial of his petition for recall of sentence made pursuant to Penal Code section 1170.126.¹ On appeal, appointed counsel for defendant filed an opening brief in accordance with *People v. Wende* (1979) 25 Cal.3d 436 requesting that this court conduct an independent review of the record to determine if there are any issues which if resolved in defendant's favor would require reversal or modification of the judgment. On May 17, 2013, we gave notice to defendant that his counsel had failed to find any arguable issues and that defendant had 30 days within which to submit by brief or letter any grounds of appeal, contentions, or arguments he wished this court to consider. Defendant did not file a response brief or letter. After independently reviewing the record, we affirm the judgment.

BACKGROUND

Defendant filed a petition for recall of sentence pursuant to section 1170.126, stating that he was serving a third-strike sentence of 25-life, imposed for his 1997 conviction for being a felon in possession of a gun, a violation of section 12021, subdivision (a)(1). He was previously convicted of attempted murder (§§ 664, 187, subd. (a)), second degree robbery (§ 211) and assault with a firearm (§ 245, subd. (c)). The trial court denied the motion because defendant's prior conviction of attempted murder came within section 667, subdivision (e)(2)(C)(iv), rendering defendant ineligible for section 1170.126 relief.

DISCUSSION

We have made an independent examination of the entire record to determine if there are any other arguable issues on appeal. Based on that review, we have determined

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

that there are no arguable issues on appeal. We are therefore satisfied that defendant's counsel has fully complied with counsel's responsibilities under *People v. Wende, supra*, 25 Cal.3d 436.

DISPOSITION

We affirm the order.

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MOSK, J.

We concur:

TURNER, P. J.

KRIEGLER, J.