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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

NICOLAS ZAVALA MORALES,

Defendant and Appellant.

B261988

(Los Angeles County  
Super. Ct. No. VA106793)

APPEAL from an order of the Superior Court of the County of Los Angeles.

William C. Ryan, Judge. Affirmed.

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Jonathan B. Steiner and Richard B. Lennon, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.  
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On November 5, 2014, Nicolas Zavala Morales filed a petition to recall his sentence pursuant to Penal Code section 1170.126<sup>1</sup>, which codifies part of the “Three Strikes Reform Act” (Prop. 36, § 6, as approved by voters, Gen. Elec. (Nov. 6, 2012), effective Nov. 7, 2012). On January 20, 2015, the trial court denied the petition with prejudice on the ground that Morales’s third-strike offense rendered him ineligible for resentencing under section 1170.126. Morales filed a notice of appeal. (*Teal v. Superior Court* (2014) 60 Cal.4th 595, 601 [order denying motion to recall sentence under § 1170.126 is appealable].)

We appointed counsel to represent Morales in the matter. After examining the record, counsel filed a *Wende* brief raising no issues on appeal and requesting that we independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) On July 24, 2015, we directed appointed counsel to immediately send the record on this appeal and a copy of the opening brief to Morales and notified Morales that within 30 days from the date of the notice he could submit by letter or brief any ground of appeal, contention or argument he wished us to consider. Morales filed a letter brief on August 24, 2015.

We have examined the entire record and determined that, because Morales’s third-strike offense for attempted second degree robbery (§§ 664, 211) is a serious felony (§ 1192.7, subs. (c)(19) & (c)(39)), he cannot benefit from the provisions of section 1170.126. (§ 1170.126, subs. (b) & (e)(1).) In his letter brief, Morales fails to present any ground on which the trial court erred in denying the petition to recall his sentence. He argues that none of his convictions renders him ineligible for resentencing under section 1170.126, but does not recognize that the offense of attempted second degree robbery is a disqualifying crime. Morales also complains about his abandonment of his direct appeal in 2009 and his failed attempt to reopen the matter, but such complaints are not appropriately raised in this appeal from the order denying the petition to recall his sentence. We are satisfied that Morales’s attorneys have fully complied with their

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<sup>1</sup> Statutory references are to the Penal Code.

responsibilities and that no arguable appellate issue exists. (*People v. Wende, supra*, 25 Cal.3d at p. 441; *People v. Kelly* (2006) 40 Cal.4th 106, 110.)

**DISPOSITION**

The order is affirmed.

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ROTHSCHILD, P. J.

We concur:

CHANEY, J.

JOHNSON, J.