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COURT OF APPEAL, FOURTH APPELLATE DISTRICT
DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE, Plaintiff and Respondent, v. GABRIEL ANTHONY CARDWELL, Defendant and Appellant.	D062674 (Super. Ct. No. SWF025954)

APPEAL from a judgment of the Superior Court of Riverside County, Larrie R. Brainard, Judge. (Retired judge of the San Diego Super. Ct., assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Steven S. Lubliner, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury convicted defendant Gabriel Anthony Cardwell of commercial burglary by use of an acetylene torch, grand theft, and threat of force on a peace officer. (Pen. Code,[1]

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1 All further statutory references are to the Penal Code.

§§ 464, 487, subd. (a) & 69.) Cardwell admitted a three strikes prior within the meaning of section 667, subdivisions (c) and (e)(1) and a prison prior within the meaning of section 667.5, subdivision (b). Initially, the trial court sentenced Cardwell to a total term of 16 years four months and awarded him a total of 1143 days of actual and section 4019 credits.

On Cardwell's first appeal, we reversed his burglary conviction and remanded for further proceedings. On remand, the district attorney elected to dismiss the burglary charge and the trial court sentenced Cardwell to a term of eight years four months on the grand theft conviction. The trial court also gave Cardwell an additional six days of credit under section 4019.

Appointed appellate counsel has filed a brief summarizing the proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436.

We granted Cardwell permission to file a brief on his own behalf, and he did so. In his brief, Cardwell argues the trial court erred when, without consulting counsel, the trial court responded to a jury question. The record shows that during trial, the jury asked the trial court the following question: "Does aiding and abetting apply to each charge individually or all three as a whole[?]" The trial court responded: "Each charge is to be decided separately, thus each is independent of the other."

Our review of the record pursuant to *People v. Wende*, *supra*, 25 Cal.3d 436 has disclosed no reasonably arguable appellate issues. The record shows the trial court's

response to the jury's question was accurate and thus any failure to consult counsel did not cause any prejudice.

We find that Cardwell was adequately represented both at trial and on appeal.

DISPOSITION

The judgment is affirmed.

BENKE, Acting P. J.

WE CONCUR:

HALLER, J.

McINTYRE, J.