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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL EUGENE BOWIE,

Defendant and Appellant.

D064129

(Super. Ct. No. SCD151300)

APPEAL from a judgment of the Superior Court of San Diego County, David J. Danielsen, Judge. Affirmed.

Appellate Defenders, Inc. and Howard C. Cohen, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance by Respondent.

Michael Eugene Bowie appeals from an order denying his request for resentencing under Penal Code<sup>1</sup> section 1170.126.

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise specified.

In 2000, Bowie was convicted of robbery (§ 211) with three serious felony prior convictions (§ 667, subd. (a)(1)); three prison priors (§ 667.5, subd. (b)) and three serious/violent felony prior convictions (§ 667, subds. (b)-(i)).<sup>2</sup> The trial court denied Bowie's motion to strike the serious/violent felony prior convictions and sentenced him to an indeterminate term of 41 years to life in prison.

In May 2013 Bowie petitioned for resentencing under section 1170.126. The trial court denied the petition finding Bowie ineligible for resentencing because his conviction was for a serious felony. Bowie filed a timely notice of appeal.

Counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *Anders v. California* (1967) 386 U.S. 738 (*Anders*) raising possible, but not arguable issues. We offered Bowie the opportunity to file his own brief on appeal but he has not responded.

## DISCUSSION

Pursuant to *Wende, supra*, 25 Cal.3d 436, appellate counsel has asked this court to review the record for error. Pursuant to *Anders, supra*, 386 U.S. 738, the brief identifies possible, but not arguable issues:

1. Is the order denying the petition for recall appealable?
2. Is Bowie ineligible for recall?

While the issue raised in No. 1 above is arguable, given the fact that Bowie is plainly ineligible for recall under section 1170.126, subdivisions (b) and (e), section

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<sup>2</sup> Since this appeal does not raise any issue regarding the facts of the underlying conviction, we will omit a statement of facts.

1192.7, subdivision (c)(19) makes any dispute about whether the denial is appealable moot.

In addition to considering the issues identified by appellate counsel, we have reviewed the entire record as mandated by *Wende, supra*, 25 Cal.3d 436 and *Anders, supra*, 386 U.S. 738. We have not found any reasonably arguable appellate issues that could conceivably lead to a reversal of the trial court's decision. Competent counsel has represented Bowie on this appeal.

#### DISPOSITION

The judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

HALLER, J.

McDONALD, J.