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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

KEITH THORNTON,

Defendant and Appellant.

D068880

(Super. Ct. No. SCN130098)

APPEAL from an order of the Superior Court of San Diego County, David J.

Danielsen, Judge. Affirmed.

Richard L. Fitzer for Defendant and Appellant.

No appearance for Respondent.

In 2002, a jury convicted Keith Richard Thornton of first degree burglary (Pen. Code,<sup>1</sup> §§ 459, 460); second degree commercial burglary (§ 459) and receiving a stolen vehicle (§ 496d). Multiple strike allegations were also found true. Thornton was sentenced in this case and one other to an aggregate term of 102 years to life in prison.

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

In March 2014, Thornton filed a petition under Proposition 36 (§ 1170.126) to recall his sentence. In August 2015, Thornton filed a petition under Proposition 47 (§ 1170.18) to redesignate certain felony convictions as misdemeanors.

Ultimately the trial court granted Proposition 36 relief and resentenced Thornton to an aggregate term of 35 years, 8 months to life. The court denied Proposition 47 relief, finding the burglary was of a private garage, and Thornton could not show the value of the stolen vehicle was less than \$950.

Thornton filed a timely notice of appeal.

Appellate counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), indicating he has not been able to identify any reasonably arguable issues for reversal on appeal. Counsel asks this court to review the record for error as mandated by *Wende*. We offered Thornton the opportunity to file his own brief on appeal but he has not responded.

#### STATEMENT OF FACTS

The probation report shows that Thornton stole a motorcycle out of an open, attached garage on April 2, 2001. On April 13, 2001, a victim reported an all terrain vehicle (ATV) was stolen from a garage in Imperial County. On April 15, 2001, Thornton was observed loading an ATV into his truck. He was arrested. It was determined that the original ATV had been taken apart and reassembled with parts from other ATV's.

## DISCUSSION

As we have noted, appellate counsel has filed a brief pursuant to *Wende, supra*, 25 Cal.3d 436, requesting this court to review the record for error. In compliance with *Anders v. California* (1967) 386 U.S. 738 (*Anders*), counsel has identified the following possible, but not reasonably arguable issue to assist us in our review of the record:

Whether the trial court erred by denying Thornton's motion to reduce the three counts in case SCN130098 to misdemeanors.

We have reviewed the entire record in compliance with *Wende, supra*, 25 Cal.3d 436 and *Anders, supra*, 386 U.S. 738 and have not been able to identify any reasonably arguable issues for reversal on appeal. Competent counsel has represented Thornton on this appeal.

## DISPOSITION

The order denying Thornton's petition for relief under section 1170.18 is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

McINTYRE, J.

O'ROURKE, J.