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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

PIERRE DUQUETTE,

Defendant and Appellant.

E055885

(Super.Ct.No. FVI1001888)

OPINION

APPEAL from the Superior Court of San Bernardino County. Lorenzo Balderrama, Judge. Affirmed.

Jonathan E. Demson, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Defendant appeals from the trial court's order denying his *ex parte* application to increase his pre-sentence custody credits by applying retroactively the version of Penal Code section 4019 that became operative October 1, 2011.

FACTS AND PROCEDURAL BACKGROUND

On November 23, 2010, a jury convicted defendant of being a felon in possession of a firearm (Pen. Code, § 12021, subd. (a)(1)),¹ assault with a firearm (§ 245, subd. (a)(2)) and corporal injury to a cohabitant (§ 273.5, subd. (a)). The jury also found true a special allegation as to the corporal injury charge that defendant used a firearm (§ 12022.5, subd. (a)). Following the verdict, defendant admitted that he had a “strike” prior (§§ 667, subds. (b) – (i) and 1170.12, subds. (a) – (d)).

On December 29, 2010, the trial court granted defendant’s motion to strike his prior strike conviction and sentenced defendant to five years in prison, as follows: two years for the corporal injury plus three years on the firearm used enhancement. The trial court then imposed, but stayed pursuant to section 654, a term of 16 months for being a felon in possession of a firearm and a term of two years for the assault charge.

Defendant appealed his conviction, which this court affirmed in full in an opinion dated May 15, 2012 (Court of Appeal No. E052648).

On February 27, 2012, defendant filed with the superior court an “*Ex Parte* Application to Correct Pre-sentence Custody Credit Per Amended Penal Code Section 4019.” On February 29, 2012, the superior court denied the application. Defendant appealed the trial court’s order.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

DISCUSSION

Upon defendant’s request, this court appointed counsel to represent him on appeal. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d 493], setting forth a statement of the case, a summary of the facts, and potential arguable issues and requesting this court to conduct an independent review of the record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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RAMIREZ
P. J.

We concur:

RICHLI
J.

MILLER
J.