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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.

DAVID ALLEN CLARY,

Defendant and Appellant.

E056771

(Super.Ct.No. RIF141168)

OPINION

APPEAL from the Superior Court of Riverside County. Becky Dugan, Judge.

Affirmed.

Richard Schwartzberg, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant David Allen Clary appeals after the trial court denied his postjudgment motion to receive additional conduct credits pursuant to Penal Code section 4019. We affirm the trial court's order.

PROCEDURAL BACKGROUND

Pursuant to a plea agreement, defendant pled guilty to possession of stolen property. (Pen. Code, § 496, subd. (a).) In return, the remaining allegations were dismissed, and on November 16, 2010, defendant was sentenced to four years in state prison pursuant to the three strike law. (Pen. Code, § 667, subd. (e)(1).) Defendant was awarded 266 days of presentence conduct credits.

On June 25, 2012, defendant filed an ex parte motion for an order correcting his presentence custody credits, claiming he was entitled to 90 days of additional conduct credits pursuant to amended Penal Code section 4019, which became effective on January 25, 2010.¹ (Stats. 2009, 3d Ex. Sess. 2009–2010, ch. 28, § 50.) The trial court denied defendant’s request, finding the presentence credits were properly calculated. This appeal followed.

DISCUSSION

Defendant appealed and, upon his request, this court appointed counsel to represent him. 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, setting forth a statement of the case, a summary of the facts and potential arguable issues, and requesting this court conduct an independent review of the record.

¹ We note that Penal Code section 4019 has been amended twice since January 2010, but those amendments only apply to crimes committed after certain dates.

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.

III

DISPOSITION

The judgment is affirmed.

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RAMIREZ

P. J.

We concur:

KING

J.

MILLER

J.