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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.

ALBERT JOSEPH ALVA,

Defendant and Appellant.

E058821

(Super.Ct.No. FSB047828)

OPINION

APPEAL from the Superior Court of San Bernardino County. Michael A. Smith, Judge. (Retired judge of the San Bernardino Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Leslie A. Rose, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Albert Joseph Alva appeals after the trial court denied his petition for resentencing under Penal Code section 1170.126, known as the Three Strikes

Reform Act of 2012. (Prop. 36, as approved by voters, Gen. Elec. Nov. 7, 2012.)¹

Defendant filed a notice of appeal on May 24, 2013. We affirm.

PROCEDURAL BACKGROUND

On June 8, 2000, a jury found defendant guilty of first degree residential burglary. (§ 459, count 1.) The jury also found that defendant had eight prior strike convictions (§§ 1170.12, subds. (a)-(d) & 667, subds. (b)-(i)), that he was convicted of two serious felonies within the meaning of section 667, subdivision (a)(1), and that he had served one prior prison term (§ 667.5, subd. (b)). The court sentenced him to state prison for 25 years to life on count 1, plus 11 years on the enhancements, for a total term of 36 years to life.

On April 24, 2013, defendant filed an in pro. per. petition for resentencing under section 1170.126. The court denied the petition since defendant's current conviction was for a serious offense, which made him ineligible for resentencing under section 1170.126. (§ 1170.126, subd. (e)(1).)

ANALYSIS

After the notice of appeal was filed, this court appointed counsel to represent defendant. 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 brief statement of the facts, and identifying

¹ All further statutory references will be to the Penal Code, unless otherwise noted.

one potential arguable issue: whether the trial court erred in denying defendant's petition for resentencing under section 1170.126.

Defendant was offered an opportunity to file a personal supplemental brief, which he has not done. Under *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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HOLLENHORST
J.

We concur:

RAMIREZ
P. J.

KING
J.