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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.

EUGENE MATTHEWS, JR.,

Defendant and Appellant.

E058831

(Super.Ct.No. FWV011387)

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.

Patrick E. DuNah, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

On July 27, 1998, a jury found defendant and appellant Eugene Matthews, Jr., guilty of possessing a completed check with intent to defraud. (Pen. Code, § 475a.) Thereafter, the trial court found true two strike prior allegations. (Pen. Code, §§ 1170.12, subs. (a)-(d), 667, subs. (b)-(i).)

On August 26, 1998, the trial court sentenced defendant to a total term of 25 years to life in state prison. (Pen. Code, §§ 1170.12, subd. (c)(2), 667, subd. (e)(2).)

On February 27, 2013, defendant filed a habeas corpus petition, in pro. per., for resentencing under Proposition 36.¹ On May 2, 2013, in denying defendant's petition, the court found that defendant's strikes included forcible sexually violent offenses; therefore, defendant was ineligible for resentencing under Penal Code section 1170.126. On May 24, 2013, defendant filed a timely notice of appeal from the denial of his petition.

¹ Defendant appeals from an order denying his petition for resentencing pursuant to Penal Code section 1170.126, added by Proposition 36, the Three Strikes Reform Act of 2012.

ANALYSIS²

After 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 to undertake a review of the entire 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 conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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McKINSTER
Acting P. J.

We concur:

RICHLI
J.

CODRINGTON
J.

² This is an appeal from the denial of defendant's petition for resentencing. The underlying facts from the 1998 conviction, therefore, are neither included in the record nor applicable to this appeal.