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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. MARK CLEMONS, Defendant and Appellant.	E059566 (Super.Ct.No. FWV010224) 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[1]

On August 21, 1996, following a jury trial, defendant and appellant Mark Clemons was convicted of first degree residential burglary under Penal Code[2] section 459. On December 13, 1996, the trial court sentenced defendant to a total term of 25 years to life.

On March 21, 2013, defendant filed an in pro. per. petition for resentencing under section 1170.126. On August 21, 2013, the trial court denied the petition. The court noted that defendant's commitment offense was for first degree residential burglary, a serious felony. The court therefore found that "defendant [was] not eligible for re-sentencing under PC1170.126."

Defendant filed a timely notice of appeal on the denial of his petition.

ANALYSIS

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.

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[1] The underlying facts are neither in the record nor relevant to this appeal.

[2] All further statutory references are to the Penal Code, unless otherwise specified.

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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RICHLI
J.

We concur:

RAMIREZ
P. J.

CODRINGTON
J.