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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 LEE WOODS,

Defendant and Appellant.

E060372

(Super.Ct.No. FSB11007)

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.

Neil Auwarter, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

I

STATEMENT OF THE CASE

In 1999, a jury convicted defendant and appellant David Woods of carjacking under Penal Code ¹ section 215, subdivision (a); and second degree robbery under section 211. The jury also found that defendant personally used a firearm under section 12022.5, subdivision (a), in the commission of both offenses. Additionally, the jury found true two alleged prior felony strikes, and that these priors were serious felonies within the meaning of section 667, subdivision (a). Furthermore, the jury found true one prior prison term allegation under section 667.5, subdivision (b).

The court sentenced defendant to an indeterminate term of 27 years to life for the carjacking conviction, plus a consecutive determinate term of 21 years for the personal gun use, prior serious felony, and prior prison term allegations. The robbery sentence was stayed under section 654.

On July 21, 2000, the trial court issued an amended abstract of judgment clarifying that the firearm use sentence, as to the stayed offense of robbery, was also stayed; and that a one year sentence had been imposed for the section 667, subdivision (b), prior prison term enhancement.

On September 19, 2013, defendant filed an in propria persona petition for a sentence reduction under Proposition 36 (§ 1170.126). The court denied the petition, stating that defendant was ineligible for relief because robbery and carjacking are

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

“violent” felonies. Defendant filed another section 1170.126 petition on December 5, 2013. On December 13, 2013, the court treated the petition as a request for reconsideration and denied it.

On January 6, 2014, defendant filed a timely notice of appeal from the denial of his section 1170.126 petition.²

II

ANALYSIS³

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.

² The issue of whether a defendant may appeal the denial of a petition under section 1170.126 is currently under review by the California Supreme Court in *Teal v. Superior Court*(S211708), formerly 217 Cal.App.4th 308.

³ The facts surrounding defendant’s convictions from 1999 are not included in the record. These facts, however, are not necessary as this appeal deals solely with the trial court’s denial of defendant’s section 1170.126 petition.

III
DISPOSITION

The judgment is affirmed.

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RICHLI
J.

We concur:

McKINSTER
Acting P. J.

MILLER
J.