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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.

JOSE OSCAR RODRIGUEZ,

Defendant and Appellant.

E061139

(Super.Ct.No. FCH00354)

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.

In 1994, a jury convicted defendant and appellant Jose Oscar Rodriguez of two counts of attempted murder under Penal Code¹ sections 664 and 187, subdivision (a); one count of shooting at an occupied motor vehicle under section 246; and one count of being an active participant in a criminal street gang under section 186.22, subdivision (a). The court imposed an aggregate prison term of 34 years to life, including two consecutive terms of 15 years to life for the attempted murder counts.

On February 19, 2014, defendant filed an in propria persona petition entitled “Petition for Recall of Sentence/Waiver of Personal Appearance [¶] Penal Code §1170.126.” The body of the petition, however, stated that defendant sought parole under section 3051, which authorizes early parole for life inmates whose crimes were committed prior to age 18.² On May 2, 2014, the trial court denied the petition. It stated that defendant’s commitment was for serious felonies, making him ineligible for resentencing under section 1170.126.

On May 12, 2014, defendant filed a timely notice of appeal.

FACTUAL AND PROCEDURAL HISTORY

The facts of defendant’s underlying offenses are not provided in the record.

DISCUSSION

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)

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

² Defendant was 17 years, 8 months old when he committed his offenses.

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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MILLER
J.

We concur:

McKINSTER
Acting P. J.

CODRINGTON
J.