

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

ARCHIE RAY LAWRENCE,

Defendant and Appellant.

F071253

(Super. Ct. No. 25679)

**OPINION**

**THE COURT**\*

APPEAL from a judgment of the Superior Court of Stanislaus County. Ricardo Cordova, Judge.

Eric Weaver, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

-ooOoo-

---

\* Before Poochigian, Acting P.J., Detjen, J. and Franson, J.

## **INTRODUCTION**

Appellant Archie Ray Lawrence was convicted in 1995 of robbery; it also was found true that he had suffered two prior convictions for robbery. Lawrence was sentenced to a term of 25 years to life as a third strike defendant. On February 26, 2015, Lawrence filed a petition to recall his sentence and for resentencing pursuant to Penal Code<sup>1</sup> section 1170.18, subdivision (a). The trial court denied the petition on the basis Lawrence was ineligible for resentencing. Lawrence appealed. We affirm.

## **FACTUAL AND PROCEDURAL SUMMARY**

On April 25, 1995, a jury found Lawrence guilty of robbery, a violation of section 211. In a court trial on June 22, 1995, it was found true that Lawrence had suffered two prior robbery convictions, which qualified as serious felonies pursuant to section 667, subdivision (d) and section 1192.7. The trial court also denied Lawrence's motion to strike one or more of his prior convictions. Lawrence was sentenced to a term of 25 years to life plus 10 years.

Lawrence appealed the conviction and on November 14, 1996, this court affirmed the conviction. Lawrence apparently filed a motion for reconsideration of his sentence with the trial court. On October 8, 1997, the trial court treated the motion for reconsideration as a petition for writ of habeas corpus and denied Lawrence's request pursuant to *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 529-530, to strike his prior convictions.

On February 26, 2015, Lawrence filed a petition for recall and resentencing pursuant to section 1170.18, subdivision (a). In his petition, Lawrence asked that his sentence be recalled and he be resentenced as having been convicted of a misdemeanor because he "would not pose an unreasonable risk of danger to public safety."

---

<sup>1</sup> References to code sections are to the Penal Code.

On March 3, 2015, the trial court denied the petition for recall and resentencing. The petition was denied on the basis section 1170.18 “does not provide for resentencing in cases involving violations of . . . [section] 211.”

Lawrence filed an appeal on March 23, 2015. Appellate counsel was appointed on April 29, 2015.

### **DISCUSSION**

Appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 on May 14, 2015. That same day, this court issued its letter inviting Lawrence to submit supplemental briefing. No supplemental brief was filed.

Section 1170.18, subdivision (a) specifically lists those offenses that qualify for resentencing and reduction to a misdemeanor; section 211 is not among them. “The legislative inclusion of the . . . crimes . . . necessarily excludes any other[s].” (*People v. Gray* (1979) 91 Cal.App.3d 545, 551.) Based on the statutory language of section 1170.18, subdivision (a), Lawrence is ineligible for resentencing and the trial court properly denied his petition.

After an independent review of the record, we find that no reasonably arguable factual or legal issues exist.

### **DISPOSITION**

The March 3, 2015, order denying the petition for recall and resentencing is affirmed.