

NOT TO BE PUBLISHED IN OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

MANUEL ANTHONY SAUCEDO,

Defendant and Appellant.

G049600

(Super. Ct. No. M15200)

O P I N I O N

Appeal from a postjudgment order of the Superior Court of Orange County,
Gregg L. Prickett, Judge. Affirmed.

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

No appearance for Plaintiff and Respondent.

* * *

In 1995, a jury convicted defendant Manuel Anthony Saucedo of second degree burglary (Pen. Code, §§ 459, 460, subd. (b); all further undesignated statutory references are to this code) and evading a police officer (Veh. Code, § 2800.2). The trial court later found true defendant had three prior strike convictions (§ 667, subds. (d), (e)(2)), including 1984 convictions for assault with a deadly weapon and attempted murder, and had served five prior prison terms (§ 667.5, subd. (b)). The court sentenced defendant to 53 years to life.

In late 2013, defendant filed a petition seeking to recall his sentence under section 1170.126, subdivision (e). The court denied the petition, finding defendant's prior conviction for attempted murder made him statutorily ineligible for relief under section 1170.126.

Defendant timely appealed and we appointed counsel to represent him. In his brief, counsel summarized the proceedings and the facts necessary to decide this appeal, and while not arguing against defendant, stated he had found no arguable issues to present. (*Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d 493]; *People v. Wende* (1979) 25 Cal.3d 436.) Although we notified defendant he could file written argument on his own behalf, the time to do so has passed and no communication has been received from him.

Defendant's counsel asked this court to consider two issues in conducting our independent review of the record: (1) whether he was ineligible for resentencing under section 1170.126, subdivision (c) due to his 1984 attempted murder conviction even though his sentence for that offense was stayed; and (2) whether his sentence for the greater offense of attempted murder properly stayed in his 1984 case as opposed to the lesser offense of assault with a deadly weapon.

We have considered these issues and reviewed the record according to our obligations under *Wende, supra*, 25 Cal.3d 436 and *Anders, supra*, 485 U.S. 738, but found no arguable issues on appeal.

The order is affirmed.

RYLAARSDAM, ACTING P. J.

WE CONCUR:

BEDSWORTH, J.

ARONSON, J.