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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

EDWARD DEWAYNE DORSEY,

Defendant and Appellant.

G051134

(Super. Ct. No. 03NF3450)

O P I N I O N

Appeal from a postjudgment order of the Superior Court of Orange County,  
Gary S. Paer, Judge. Affirmed.

Edward Dewayne Dorsey; and Jared G. Coleman, for Defendant and  
Appellant.

No appearance for Plaintiff and Respondent.

\* \* \*

In May 2004 defendant was found guilty of three felony offenses: brandishing a firearm (Pen. Code, § 417, subd. (a)(2))<sup>1</sup> for the benefit of a criminal street gang (§ 186.22, subd. (d); count 1); possession of a firearm by a felon (former § 12021.1, subd. (a) (renumbered § 29800, subd. (a)(1)); count 2); and active participation in a criminal street gang (§ 186.22, subd. (a); count 3). The court found two prior strikes, as well as two prior serious felonies, and sentenced defendant to a prison term of 25 years to life in accordance with the provision of section 1170.12, plus 10 consecutive years for the two prior serious felonies, for a total sentence of 35 years to life. Ten years later, in July 2014, in response to a writ of habeas corpus, the court vacated the sentence as to count 3 and vacated one of the enhancements for a prior serious felony. The resulting prison sentence was 30 years to life.

In August 2014 defendant petitioned for a recall of his sentence pursuant to section 1170.126, which was enacted as part of the Three Strikes Reform Act of 2012. In December 2014, the court dismissed the petition, finding defendant to be ineligible for resentencing because defendant was armed with a firearm when he committed his crimes. Defendant appealed from the dismissal of his petition.

Counsel did not argue against his client, but advised the court that after a full review of the record he was unable to find an issue to argue on his client's behalf. (*People v. Wende* (1978) 25 Cal.3d 436.) Counsel did not suggest any issues for this court to examine in the course of its independent review. Defendant was given 30 days to file a written argument on his own behalf. He requested a 90-day extension to file his brief due to the absence of a law librarian at his prison. We granted an extension of 30 days. We did not receive any further communication from defendant.

We have examined the entire record and have found no arguable error in the proceedings. The record reflects that defendant was armed with a firearm during the

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<sup>1</sup>

All statutory references are to the Penal Code.

commission of his crimes and, therefore, ineligible for resentencing pursuant to the Three Strikes Reform Act. (§§ 1170.126, subd. (e)(2), 1170.12, subd. (c)(2)(C)(iii).)

Moreover, defendant cannot challenge his prison sentence on appeal as he did not appeal from his resentencing following the writ of habeas corpus, but instead only from the denial of his resentencing petition pursuant to the Three Strikes Reform Act. The order denying defendant's petition for recall of his sentence is affirmed.

IKOLA, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

MOORE, J.