

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

LAWRENCE GOMES,

Defendant and Appellant.

B248884

(Los Angeles County
Super. Ct. No. BA122204)

APPEAL from an order of the Superior Court of Los Angeles County. William C. Ryan, Judge. Affirmed.

California Appellate Project, Jonathan B. Steiner, and Nancy Gaynor, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Respondent.

Lawrence Gomes appeals from the trial court's denial of his petition for resentencing under Penal Code section 1170.126.

We appointed counsel to represent appellant in this matter. After examining the record, counsel filed a "*Wende*" brief raising no issues on appeal and requesting that we independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) We directed appointed counsel to immediately send the record on this appeal and a copy of the opening brief to appellant and notified appellant that within 30 days from the date of the notice he could submit by brief or letter any grounds of appeal, contentions or argument he wished us to consider. Appellant filed two responses which we discuss below.

We have examined the entire record and are satisfied that appellant's attorney has fully complied with her responsibilities and that no arguable issue exists. (*People v. Wende, supra*, 25 Cal.3d at p. 441.) We set out below a brief description of the facts and procedural history of the case, the crimes of which the appellant was convicted, and the punishment imposed. (*People v. Kelly* (2006) 40 Cal.4th 106, 110.)

Appellant was charged by amended information on July 18, 1996, with one count of first-degree residential burglary (Pen. Code, § 459), and one count of receiving stolen property (Pen. Code, § 496, subd. (a)). The information further alleged that appellant had suffered seven prior serious or violent felony convictions within the meaning of Penal Code section 1170.12, subdivisions (a) through (d), and section 667, subdivisions (b) through (i). The information alleged that appellant had suffered eleven prior serious felony convictions that were brought and tried on nine separate occasions within the meaning of Penal Code section 667, subdivision (a)(1). A jury found appellant guilty of first-degree residential burglary, but not guilty of receiving stolen property. Pursuant to an agreement with the prosecutor, appellant admitted two prior "strikes" in exchange for the prosecutor dismissing all of the alleged five-year priors, and running his sentence on his probation violations concurrent with the burglary sentence. On January 31, 1997, the court sentenced appellant to state prison for a term of 25-years-to-life.

In January 2013, appellant filed a request for resentencing under Penal Code section 1170.126. The trial court properly denied this request because the record shows

that appellant’s third strike was a conviction of first degree burglary—a “serious felony” under Penal Code section 1192.7, subdivision (c)(18). Accordingly, appellant is not eligible for resentencing. (Pen. Code, § 1170.126, subd. (b).)

In his supplemental briefs appellant claims the trial court erred in not striking one or more of his previous serious or violent felonies under *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497 and discusses his good behavior in prison. Neither of these subjects is relevant to the present appeal.

DISPOSITION

The trial court’s order is affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, J.

We concur:

MALLANO, P. J.

CHANEY, J.