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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

DIMETIROUS CAMPBELL,

Defendant and Appellant.

B296329

(Los Angeles County
Super. Ct. No. BA282866)

THE COURT:

Defendant and appellant Dimetirous Campbell (defendant) appeals from an order denying his petition for resentencing. His appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues. On August 22, 2019, we notified defendant of his counsel's brief and gave him leave to file, within 30 days, his own brief or letter stating any grounds or argument he might wish to have considered. That time has elapsed, and defendant has submitted no brief or letter. We have reviewed the entire record, and finding no arguable issues, affirm the judgment.

In 2006, defendant was convicted of four felonies and sentenced as a third strike offender under the Three Strikes law (Pen. Code, §§ 1170.12, subds. (a)-(d), 667, subds. (b)-(i)). The trial court imposed a term of 35 years to life in prison, composed of 25 years to life plus two five-year recidivist enhancements pursuant to Penal Code section 667, subdivision (a)(1). We affirmed the judgment in full in 2008. (See *People v. Campbell* (Sept. 26, 2008, B201020) [nonpub. opn.].) The California Supreme Court denied review on December 10, 2008 (S167866), and the remittitur was issued December 31, 2008. No further appeal was taken from the judgment.¹

In 2018, the Legislature passed Senate Bill No. 1393, which amended Penal Code sections 667 and 1385 to give trial courts discretion whether to strike recidivist enhancements for prior serious felony convictions imposed under Penal Code section 667, subdivision (a). (See Stats. 2018, ch. 1013.) The amendments applied retroactively to all affected judgments which were not yet final on the legislation’s effective date of January 1, 2019. (*People v. Garcia* (2018) 28 Cal.App.5th 961, 973.)²

¹ In 2009, defendant filed a petition for writ of habeas corpus in federal court, which was denied on July 23, 2009. (*Campbell v. Haws* (C.D. Cal. 2009) No. CV 09–632–CJC(E).)

² “[F]or the purpose of determining retroactive application of an amendment to a criminal statute, a judgment is not final until the time for petitioning for a writ of certiorari in the United States Supreme Court has passed. [Citations.]” (*People v. Vieira* (2005) 35 Cal.4th 264, 306.) “A petition for a writ of certiorari seeking review of a judgment of a lower state court that is subject to discretionary review by the state court of last resort is timely when it is filed with the Clerk within 90 days after entry of the

On December 17, 2018, defendant filed a pro se petition in the trial court, requesting the trial court to recall his sentence and to exercise its discretion under Senate Bill No. 1393. On February 6, 2019, the trial court denied the petition and issued a memorandum opinion finding that defendant was ineligible for relief because the judgment in his case was final. Defendant filed a timely notice of appeal from the court's order.

We have examined the entire record and are satisfied that defendant's appellate counsel has fully complied with her responsibilities and that no arguable issue exists. We conclude that defendant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

The order denying the petition is affirmed.

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LUI, P. J.

ASHMANN-GERST, J.

CHAVEZ, J.

order denying discretionary review.” (U.S. Supreme Ct. Rules, rule 13(1); 28 U.S.C. § 2101(d).)