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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.

DANIEL LEE BIDDLE,

Defendant and Appellant.

B299056

(Los Angeles County
Super. Ct. No. SA068151)

THE COURT:

In 2008, Daniel Lee Biddle (defendant) fatally shot a person in the head. (See *People v. Biddle* (Jan. 11, 2012, B223000) 2012 Cal. App. Unpub. LEXIS 187 [nonpub. opn.]¹.) In 2009, a jury convicted defendant of first degree murder (Pen. Code, § 187, subd. (a))¹, and possession of a firearm by a felon (§ 12021, subd. (a)(1)). The jury also found that defendant personally and

¹ All future statutory references are to the Penal Code unless otherwise stated.

intentionally discharged a firearm causing great bodily injury and death. (§ 12022.53, subd. (d).) The trial court sentenced defendant to prison for 50 years to life, comprised of a sentence of 25 years to life for the murder and a consecutive 25 years to life for the firearm enhancement.

In February 2019, defendant filed a petition for resentencing under section 1170.95, as enacted pursuant to Senate Bill No. 1437 (Sen. Bill No. 1437 (2017-2018 Reg. Sess.) (Stats. 2018, ch. 1015)) (SB 1437), effective January 1, 2019. In a nutshell, SB 1437 invalidates murder convictions when the defendant is “not *the actual killer*, did not act with the intent to kill, or was not a major participant in the underlying felony who acted with reckless indifference to human life.” (*Id.*, § 1, subd. (f), italics added.) The trial court denied defendant’s petition “because the jury found the defendant [to be the] *actual killer*, as he personally discharged the firearm, resulting in death.” Thus, the court reasoned, SB 1437 did not by its terms apply to defendant.

Defendant appealed, and his appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues. On October 18, 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 conclude that the trial court’s ruling is correct. Further, we have examined the entire record and are satisfied that defendant’s attorney has fully complied with his responsibilities and that no other arguable issues exist. 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, 278-279; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

The judgment is affirmed.

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LUI, P.J.,

CHAVEZ, J.,

HOFFSTADT, J.