

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

THE PEOPLE,

Plaintiff and Respondent,

v.

MICAH ANTHONY SMITH,

Defendant and Appellant.

B257735

(Los Angeles County
Super. Ct. No. KA094070)

THE COURT:*

In 2011, a jury convicted appellant of conspiracy to commit residential burglary (Pen. Code, §§ 182, subd. (a)(1), 459), attempted burglary (Pen. Code, §§ 664, 459), unlawful taking of a vehicle (Veh. Code, § 10851, subd. (a)), and receiving stolen property (Pen. Code, § 496d, subd. (a)). Because appellant had two prior “strike” convictions (Pen. Code, §§ 667, 1170.12), he was sentenced under the Three Strikes law to an indeterminate term of 25 years to life on the conspiracy count, plus an 11-year consecutive term for two prior serious felony convictions and one prior prison term enhancement. Appellant appealed this judgment and we issued our opinion on July 16, 2013 (*People v. Smith* (July 16, 2013, B235380) [nonpub. opn.]), and modification order on August 13, 2013.

*

BOREN, P. J., ASHMANN-GERST, J., HOFFSTADT, J.

On August 19, 2013, appellant filed a petition for recall of his third “strike” sentence under Penal Code section 1170.126 (Prop. 36). The trial court denied the motion with prejudice, finding that appellant’s current conviction for conspiracy to commit first degree burglary (Pen. Code, § 182, subd. (a)(1)) is a serious felony under Penal Code section 1192.7, subdivision (c)(42), making appellant ineligible for resentencing under Penal Code section 1170.126, subdivision (e)(2).

Appellant now appeals from the trial court’s order after judgment. We appointed counsel to represent appellant on appeal. After examination of the record, counsel filed an “Opening Brief” in which no arguable issues were raised. On September 10, 2014, we advised appellant that he had 30 days within which to personally submit any contentions or issues that he wished us to consider. To date, no response has been received.

We have reviewed the record and are satisfied that appellant’s attorney has fully complied with all of his responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The order is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.