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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

JIMMY GARCIA GONZALEZ,

Defendant and Appellant.

B298671

(Los Angeles County
Super. Ct. No. GA095345)

APPEAL from an order of the Superior Court of Los Angeles County, Darrell Mavis, Judge. Affirmed.

Karyn H. Bucur, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

* * * * *

Defendant Jimmy Garcia Gonzalez was charged by information with home invasion robbery (Pen. Code, § 211). It was also alleged that defendant served a prior prison term, suffered a strike conviction, and had a prior serious felony conviction (§§ 667.5, subd. (b), 1170.12, 667, subd. (a)(1)). In February 2016, defendant entered a no contest plea to the robbery count, and admitted the prior conviction and strike allegations. The trial court sentenced defendant to an aggregate term of nine years in prison, consisting of the low term of two years for the robbery count, doubled due to the strike prior, and five years for his prior serious felony conviction. Defendant did not obtain a certificate of probable cause, and did not appeal his conviction.

On March 25, 2019, defendant filed a motion asking the trial court to direct the Department of Corrections to evaluate him for resentencing pursuant to Senate Bill No. 1393, hoping that with the recommendation of the Department of Corrections, the trial court would consider striking or dismissing his five-year prior conviction enhancement. (Stats. 2018, ch. 1013, § 2; see also Cal. Code of Regs., tit. 15, § 3076 [the Department of Corrections “may recommend at any time to the sentencing court the recall of an inmate’s commitment pursuant to Penal Code section 1170(d).”]) Defendant acknowledged that his conviction was already final, and that Senate Bill No. 1393 did not apply to him. (*In re Estrada* (1965) 63 Cal.2d 740, 742-748; see also *People v. Vieira* (2005) 35 Cal.4th 264, 305.) The trial court denied the motion.

We appointed appellate counsel to represent defendant. Appointed counsel filed a brief pursuant to *People v. Wende*

(1979) 25 Cal.3d 436 (*Wende*) in which no issues were raised. The brief included a declaration from counsel that she reviewed the record and sent a letter to defendant explaining her evaluation of the record. Counsel further declared that she advised defendant of the right, under *Wende*, to submit a supplemental brief. Defendant did not file any supplemental brief with this court.

We have examined the entire record, consisting of one volume of clerk's transcript, and are satisfied that appointed counsel fully complied with her responsibilities and that no arguable appellate issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106; *Wende, supra*, 25 Cal.3d 436.)

DISPOSITION

The order is affirmed.

GRIMES, Acting P. J.

WE CONCUR:

STRATTON, J.

WILEY, J.