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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM HERSHEL
OATHOUT,

Defendant and Appellant.

2d Crim. No. B297014
(Super. Ct. No. 1432901)
(Santa Barbara County)

In 2014, William Hershel Oathout pled guilty to inflicting corporal injury on a spouse (Pen. Code, § 273.5, subd. (a)),¹ criminal threats (§ 422), and dissuading a witness (§ 136.1, subd. (a)(2)). On May 14, 2014, Oathout was sentenced to an agreed-upon prison term of 17 years, 8 months. The sentence included a five-year prior serious felony conviction enhancement (§ 667,

¹ All statutory references are to the Penal Code.

subd. (a)(1)). Oathout did not seek appellate review of the convictions or sentence.

In 2018, the Legislature passed Senate Bill 1393, which amended sections 667 and 1385 to provide the trial court with discretion to strike five-year enhancements under section 667, subdivision (a)(1). (Sen. Bill No. 1393 (2017-2018 Reg. Sess.) §§ 1, 2.) The law went into effect on January 1, 2019, and applies retroactively to cases not yet final on that date. (*People v. Garcia* (2018) 28 Cal.App.5th 961, 973.)

On January 8, 2019, Oathout filed a petition for resentencing, requesting that the trial court consider exercising its newly-available discretion to strike his five-year prior serious felony conviction enhancement. The court denied the petition. It determined Oathout was not entitled to Senate Bill 1393 relief because his case became final long before that law went into effect. Oathout filed a timely notice of appeal from that ruling.

We appointed counsel to represent Oathout in this appeal. After an examination of the record, counsel filed an opening brief requesting that the court make an independent review under *People v. Wende* (1979) 25 Cal.3d 436.

We subsequently advised Oathout that he had 30 days within which to personally submit any contentions or issues that he wished us to consider. The 30 days have since passed, and Oathout has not presented any contentions or issues for our consideration.

We have reviewed the entire record and are satisfied that Oathout's counsel has fully complied with his responsibilities and

that no arguable issue exists.² (*People v. Wende, supra*, 25 Cal.3d at p. 443; *People v. Kelly* (2006) 40 Cal.4th 106, 126.)

The trial court's order denying the post-judgment petition for resentencing is affirmed.

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PERREN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

² The facts underlying Oathout's 2014 convictions are not relevant to this appeal, which challenges the trial court's denial of his petition for resentencing. Thus, we need not summarize those facts.

Gustavo E. Lavayen, Judge
Superior Court County of Santa Barbara

Richard B. Lennon, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.