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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

KING TARISHI MWASI,

Defendant and Appellant.

B269990

(Los Angeles County
Super. Ct. No. YA042214)

APPEAL from an order of the Superior Court of Los Angeles County,
William C. Ryan, Judge. Affirmed.

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

No appearance for Plaintiff and Respondent.

In 2000, King Tarishi Mwasi was convicted by a jury of failing to register as a sex offender from December 10, 1997 through December 10, 1998. (Pen. Code, § 290.)¹ In a bifurcated proceeding, Mwasi admitted he had suffered 10 prior serious or violent felony convictions within the meaning of the Three Strikes Law (§§ 667, subds. (b)-(i), 1170.12). Mwasi's motion to strike his prior convictions (§ 1385) was denied, and he was sentenced to a term of 25 years to life in state prison. (*People v. Mwasi* (July 25, 2002, B147751) [nonpub. opn.])

On November 14, 2014, the trial court denied Mwasi's petition for recall of sentence pursuant to section 1170.126, finding him ineligible for resentencing. (§ 1170.126, subd. (f).) Mwasi filed a timely notice of appeal.²

We appointed counsel to represent Mwasi on appeal. After an examination of the record, counsel filed an opening brief raising no issues. On April 21, 2016 we advised Mwasi he had 30 days to submit any arguments or raise any issues he wanted us to consider. On May 20, 2016, we granted Mwasi's request for an extension of time, making his supplemental brief due July 22, 2016. We have not received a supplemental brief.

We have examined the record and are satisfied appellate counsel for Mwasi has complied with his responsibilities and that there are no arguable issues. (See *Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746,

¹ Statutory references are to the Penal Code unless otherwise indicated.

² Mwasi's notice of appeal was stamped by the superior court clerk as having been filed on July 13, 2015. However, a notation in the Criminal Appeals Index indicates that Mwasi's notice of appeal was overlooked because it was attached to the back of a motion Mwasi sent directly to the superior court on January 14, 2015. Written by hand on the face of the notice of appeal, is "nunc pro tunc 1/14/15." Accordingly, the notice of appeal is deemed timely filed.

145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.)

Proposition 36 (the Three Strikes Reform Act of 2012) amended sections 667 and 1170.12 to limit Three Strikes sentences for current convictions as enumerated. However, a petitioner may not be resentenced under the statute if he or she has suffered a prior strike conviction that falls within one of several listed categories, among them, “sexually violent offenses” as defined by Welfare and Institutions Code section 6600. (§§ 667, subd. (e)(2)(C)(iv)(1), 1170.12, subd. (c)(2)(C)(iv)(1).) One of Mwasi’s prior felony convictions is for forcible oral copulation (§ 288a, subd. (d)), a sexually violent offense (Welf. & Inst. Code, § 6600, subd. (b)). This prior conviction makes Mwasi ineligible for resentencing pursuant to section 1170.126, subdivision (e)(3).

DISPOSITION

The order is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.