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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.

DARIUS MATTHEW SHADZAD,

Defendant and Appellant.

2d Crim. No. B257547
(Super. Ct. No. F392359)
(San Luis Obispo County)

Appellant was convicted by jury of possessing a deadly weapon in a penal institution. (Pen. Code, § 4502, subd. (a).) Because he had two prior "strike" convictions, the trial court sentenced him to an indeterminate 25-year-to-life term under the three strikes law. (*Id.*, §§ 667, subds. (b)-(i); 1170.12.) He appealed that judgment and we affirmed it. (April 6, 2009, B203754 [nonpub. opn.])¹

On January 10, 2014, appellant moved to recall his sentence pursuant to Proposition 36. (Pen. Code, § 1170.126.) In denying the motion, the trial court reasoned that appellant was ineligible for resentencing because he was armed with a

¹ We grant appellant's request and have taken judicial notice of the records in Case No. B203754. (Evid. Code, § 452.)

deadly weapon at the time he committed the offense. (*Id.*, §§ 1170.12, subd. (c)(2)(C)(iii); 1170.126, subd. (e)(2).)

We appointed counsel to represent appellant in this appeal. After counsel's examination of the record she filed a brief raising no issues and requesting our independent review pursuant to *People v. Wende* (1979) 25 Cal.3d 436. We notified appellant that he had 30 days in which to advise us of any claims he wished us to consider. We have received no response.

We have reviewed the entire record and are satisfied that appellant's counsel has fully complied with her responsibilities, and that no arguable issue exists. (*People v. Kelly* (2006) 40 Cal.4th 106, 123-124; *People v. Wende, supra*, 25 Cal.3d at p. 441.)

The judgment (order) is affirmed.

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PERREN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

John A. Trice, Judge

Superior Court County of San Luis Obispo

California Appellate Project, Jonathan B. Steiner and Cheryl Lutz,
under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.