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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

LARRY KELLY HARGREW,

Defendant and Appellant.

B260926

(Los Angeles County
Super. Ct. No. PA025937)

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.

Defendant, Larry Kelly Hargrew, appeals from the denial of a Penal Code section 1170.126 sentence recall petition. We affirm the order.

We appointed counsel to represent defendant on appeal. After examination of the record, appointed appellate counsel filed an “Opening Brief” in which no issues were raised. Instead, appointed appellate counsel requested this court independently review the entire record on appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441. (See *Smith v. Robbins* (2000) 528 U.S. 259, 277-284.) We have examined the entire record and are satisfied appointed appellate counsel has fully complied with his responsibilities.

On February 26, 2015, we advised defendant that he had 30 days within which to personally submit any arguments he wished us to consider. On March 12, 2015, defendant filed a letter brief with this court. Evidence attached to his sentence recall petition indicates he has been a model prisoner. Defendant discussed: his low risk of reoffending given his age, 73; his journey from criminal to ordained minister; and the steps he has taken towards rehabilitation. He admitted he had previously been convicted of murder. He did not, however, present any legal argument justifying relief under section 1170.126. Defendant falsely claims he served two Vietnam combat tours. His defense department Form DD214 discharge document does not reflect such service.

We have independently reviewed the record. The trial court properly denied the petition for recall of sentence because defendant has a prior second degree murder conviction. As a result of his prior conviction, defendant is statutorily ineligible for resentencing. (Pen. Code, §§ 667, subd. (e)(2)(C)(iv)(IV), 1170.12, subd. (c)(2)(C)(iv)(IV), 1170.126, subd. (e)(3).)

The order is affirmed.

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TURNER, P.J.

We concur:

MOSK, J.

GOODMAN, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.