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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL PITTMAN,

Defendant and Appellant.

B260645

(Los Angeles County
Super. Ct. No. BA137385)

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 Michael Pittman appeals from the denial of his petition to recall his sentence under the Three Strikes Reform Act of 2012 (Pen. Code, § 1170.126), and to strike a prior robbery conviction pursuant to *People v. Vargas* (2014) 59 Cal.4th 635 (*Vargas*). His appointed counsel filed a *Wende* brief. (*People v. Wende* (1979) 25 Cal.3d 436.) On February 24, 2015, we directed appointed counsel to send the record and a copy of counsel's brief to defendant and notified defendant of his right to respond within 30 days. We received no response.

We have reviewed the whole record under *People v. Kelly* (2006) 40 Cal.4th 106. In 1996, defendant was convicted by a jury of second degree robbery. Because he had two prior robbery convictions, defendant was given an indeterminate life sentence under the Three Strikes Law. On March 4, 2013, defendant filed a petition for recall of his sentence pursuant to Penal Code section 1170.126. The court denied the petition because his current felony falls under Penal Code section 667.5, subdivision (c), rendering defendant ineligible for resentencing. On October 9, 2014, defendant filed a second petition to recall his sentence, citing Penal Code section 1170.126 and *Vargas, supra*, 59 Cal.4th 635. The court denied defendant's request under section 1170.126 on the same ground, and directed defendant to pursue his *Vargas* claim in a habeas corpus petition. (See *Polanski v. Superior Court* (2009) 180 Cal.App.4th 507, 543 ["A petition for habeas corpus is the appropriate vehicle for obtaining review of issues requiring consideration of matters outside the record"].)

Having reviewed the record, we are satisfied that no arguable issues for appeal exist.

DISPOSITION

The order is affirmed.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

COLLINS, J.