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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

D085609

Plaintiff and Respondent,

v.

(Super. Ct. No. SCD300918)

DYLAN M. SPILLANE,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of San Diego County, Rachel Cano, Judge. Affirmed.

Joshua Peter Visco, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Dylan M. Spillane was charged with five counts of robbery with the use of a knife (Pen. Code,¹ §§ 211 & 12022, subd. (b)(1)). It was also alleged he had two serious felony prior convictions (§ 667, subd. (a)(1)) and two strike priors (§ 667, subds. (b)–(i)).

1 All statutory references are to the Penal Code.

Spillane entered into an agreement with the court in which the prosecutor did not join. Spillane agreed to plead guilty to all charges and admit all allegations. The court agreed to impose a sentence between 16 and 25 years in prison. The court ultimately sentenced Spillane to a determinate term of 21 years four months in prison.

Spillane filed a timely notice of appeal.

Appellate counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 indicating that counsel has not been able to identify any arguable issues for reversal on appeal. Counsel asks the court to independently review the record for error as mandated by *Wende*. We offered Spillane the opportunity to file his own brief on appeal, but he has not responded.

Since this appeal arises from a plea agreement we find it unnecessary to set forth a statement of facts in this opinion.

DISCUSSION

As we have noted, appellate counsel has filed a *Wende* brief and asks the court to independently review the record for error. To assist the court in its review, and in compliance with *Anders v. California* (1967) 386 U.S. 738, counsel has identified two possible issues which were considered in evaluating the potential merits of this appeal.

1. Whether the court erred in selecting the middle term in prison for the lead charge.

2. Whether the court erred by failing to strike both strike priors.

We have independently reviewed the record for error as required by *Wende* and *Anders*. We have not identified any arguable issues for reversal on appeal. Competent counsel has represented Spillane on this appeal.

DISPOSITION

The judgment is affirmed.

HUFFMAN, J.*

WE CONCUR:

DATO, Acting P. J.

CASTILLO, J.

* Retired Associate Justice of the Court of Appeal, Fourth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.