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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

CRISTOPHER MACARIO ZUNIGA,

Defendant and Appellant.

B276226

(Los Angeles County
Super. Ct. No. TA139363)

THE COURT:*

In the course of evading police, defendant Cristopher Macario Zuniga crashed into a recreational trailer and van. Defendant pled no contest to felony evading a police officer

* CHAVEZ, Acting P. J., HOFFSTADT, J., GOODMAN, J.†

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

(Veh. Code, § 2800.2). He was sentenced to three years of formal probation, which included 120 days in the county jail.

In a contested restitution hearing, the owner of the damaged trailer and van testified that he and his family lived in the trailer; and that many items, such as a piano, speakers, projector, mirror, mattress, curtains, typewriter, and a dishwasher, all of which were in good condition, were completely damaged by the impact of the collision. He presented two estimates for repairing the trailer and van and replacing the damaged contents. The first was for \$5,695, which included the repair of exterior damage to the trailer and van. The second was for \$30,000, which also included a remodel of the kitchen, bathroom, floors, and walls of the trailer. The owner also claimed that he incurred a loss of \$880 in attending the court proceedings. Defendant presented evidence that the value of the trailer was “\$1,500 at best.” The court ordered defendant to pay the owner of the trailer and van the amount of the lower estimate—\$5,695, plus \$880 in lost income, for a total award of \$6,575, pursuant to Penal Code section 1202.4, subdivision (f).¹

Defendant’s appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues. On January 23, 2017, we notified defendant of his counsel’s brief and gave him leave to file, within 30 days, his own brief or letter stating any grounds or argument he might wish to have considered. That time has elapsed, and defendant has submitted no brief or letter. We have reviewed the entire record, and finding no arguable issues, affirm the judgment.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

Nothing in the record suggests that defendant's plea was anything other than knowing, intelligent and voluntary.

Further, nothing in the record calls into question the court's subsequent restitution award. Section 1202.4, subdivision (f) states: "[I]n every case in which a victim has suffered economic loss as a result of the defendant's conduct, the court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the court." This restitution "shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct" (§ 1202.4, subd. (f)(3).) Under this code section, the "value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible." (§ 1202.4, subd. (f)(3)(A).)

An owner's testimony may establish the value of damaged property (Evid. Code, § 813, subd. (a)) and statements by the victims of the crimes about the value of the property constitute ""prima facie evidence of value for purposes of restitution." [Citations.]"" (*People v. Prosser* (2007) 157 Cal.App.4th 682, 690-691.) We review the trial court's order for an abuse of discretion and reverse only if the trial court's order is arbitrary or capricious. (*People v. Gemelli* (2008) 161 Cal.App.4th 1539, 1542.)

The restitution award in this case was based on the property owner's testimony and was calculated using a rational method designed to make the victim whole. (See generally *People v. Stanley* (2012) 54 Cal.4th 734, 738-739 [awarding restitution in

the amount it would cost to repair the victim's vandalized vehicle even though it equated to three times what the victim had paid for the vehicle]; *In re Dina V.* (2007) 151 Cal.App.4th 486, 489 [court may award cost of repair even if it exceeds the replacement value of the damaged vehicle, where limiting the amount of restitution to the replacement cost would not make the victim whole].)

We have examined the entire record and are satisfied that defendant's attorney has fully complied with his responsibilities and that no arguable issues exist. We conclude that defendant has, by virtue of his counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

The judgment is affirmed.

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