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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.

EMMANUEL VASQUEZ,

Defendant and Appellant.

B295978

(Los Angeles County  
Super. Ct. No. VA104498)

THE COURT:

In 2009, defendant and appellant Emmanuel Vasquez was convicted by jury of second degree murder. (Pen. Code, § 187.) The jury also found a gun enhancement and gang allegation to be true. (Pen. Code, §§ 12022.53, subd. (d), 186.22, subd. (b)(1).) He was sentenced to prison for a total of 40 years to life. Defendant timely appealed, and we affirmed the judgment of conviction. (*People v. Vasquez* (Jan. 26, 2011, B221106) [nonpub. opn.].)

On January 9, 2019, defendant filed a letter with the trial court, asking that he be provided with an application for relief

pursuant to Senate Bill No. 620 (2017-2018 Reg. Sess.). Senate Bill No. 620, which became effective January 1, 2018, amended Penal Code sections 12022.5 and 12022.53 to give trial courts discretion to strike an enhancement.

It appears that the trial court construed defendant's letter to be an actual application for relief under Senate Bill No. 620. On January 17, 2019, it denied defendant's request on the grounds that his case was final. Defendant timely appealed the trial court's order denying his request for relief pursuant to Senate Bill No. 620.

Counsel was appointed to represent defendant in connection with this appeal. After examination of the record, counsel filed an "Opening Brief" in which no arguable issues were raised. On July 11, 2019, we received defendant's "Supplemental Brief." In his supplemental brief, defendant makes the following assertions: (1) He is a first time offender; (2) He acted in self-defense; (3) "Reiterated 'Challenge, under [*United States v. Melendez-Diaz* (2009) 557 U.S. 305]"; (4) "Consideration under [*People v. Franklin* (2016) 63 Cal.4th 261]"; (5) Court-appointed counsel "passed the puck" to the Court of Appeal by submitting an appellate brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441 (*Wende*); and (6) Various constitutional violations, including ineffective assistance of counsel, unconstitutional sentence, violation of his right to confront witnesses, and violation of his constitutional right to bear arms.

On July 25, 2019, we received defendant's "Amendment on Appeal and Brief." In this document, defendant cites additional legal authority regarding Senate Bill No. 620. He reiterates that he is a "first time youth offender," and argues that mitigating circumstances compel us to remand the matter to the trial court

to reconsider and determine whether it would strike the gun enhancement. His letter does not address the trial court's determination that it could not grant the relief requested because defendant's case was final.

We have examined the entire record<sup>1</sup> and we are satisfied that defendant's appellate counsel has fully complied with her responsibilities and that no arguable issues exist. (*Wende, supra*, 25 Cal.3d at p. 441.) To the extent defendant challenges the underlying trial and his sentence, those claims have been fully resolved. Regarding defendant's request for relief pursuant to Senate Bill No. 620, the trial court rightly denied his petition because defendant's case was final at the time he filed his request. (*People v. Vieira* (2005) 35 Cal.4th 264, 305–306 [a judgment becomes final when the time for petitioning for a writ of certiorari in the United States Supreme Court has passed]; *In re Spencer* (1965) 63 Cal.2d 400, 405 [a judgment is deemed final when “the courts can no longer provide a remedy to a defendant on direct review”].)

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<sup>1</sup> We hereby grant defendant's motion to augment the record on appeal and have considered those documents as part of our independent review.

Defendant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment and sentence 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 trial court's order is affirmed.

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ASHMANN-GERST, Acting P. J. CHAVEZ, J. HOFFSTADT, J.