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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

LUIS FRANCISCO HERRERA,

Defendant and Appellant.

B296432

(Los Angeles County
Super. Ct. No. LA083502)

APPEAL from a judgment of the Superior Court of Los Angeles County, Michael V. Jesic, Judge. Affirmed.

Roberta Simon, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Luis Francisco Herrera appeals from a judgment of conviction entered after he pleaded no contest to one count of second degree murder (Pen. Code, § 187, subd. (a)), and the trial court sentenced him to state prison for 15 years to life. We affirm.

BACKGROUND

On April 28, 2016, police officers discovered the body of Nshan Balyan, wrapped in plastic in a vacant lot in Burbank. Surveillance videos from adjacent cameras showed a white truck, which was later located at a house on Orion Avenue in Van Nuys. The police detained three people at the Orion Avenue house, including Ivan Marcelo Masabanda.

Subsequent investigation revealed that Balyan had been flirting with Herrera's girlfriend. Herrera ordered Carlos Rafael Lopez to kill Balyan if Balyan came to the Orion Avenue house. When Balyan went to the house on April 27, Lopez shot him. Masabanda helped clean up after the murder. The police arrested Herrera and Lopez.

The People filed an information charging Herrera and Lopez with murder and Masabanda with being an accessory to murder. Herrera initially pleaded not guilty. On January 8, 2019, Herrera changed his plea to no contest in exchange for a conviction of second degree murder and a sentence of 15 years to life. He signed a felony advisement of rights, waiver of his right

to trial, and plea form. He also signed a form waiving all of his appellate rights.¹

Thereafter, the trial court sentenced Herrera to 15 years to life in state prison. The court imposed \$300 restitution and parole revocation fines (Pen. Code, §§ 1202.4, subd. (b), 1202.45), a \$40 court security fee (*id.*, § 1465.8), and a \$30 criminal conviction assessment (Gov. Code, § 70373). Herrera received 981 days of actual custody credit.

Herrera timely filed his notice of appeal.

DISCUSSION

We appointed counsel to represent Herrera on this appeal. After review of the record, Herrera’s counsel filed an opening brief requesting this court to independently review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441. On October 11, 2019, we sent a letter to Herrera, advising him that he had 30 days within which to personally submit any contentions or issues that he wished us to consider. We received no response.

We have examined the entire record. We are satisfied that no arguable legal issues exist and that Herrera’s counsel has fully complied with her responsibilities. By virtue of counsel’s compliance with the *Wende* procedure and our review of the

¹ Herrera’s attorney also signed this form but subsequently withdrew his approval of the waiver based on *Garza v. Idaho* (2019) ___ U.S. ___, ___ [139 S.Ct. 738, 742, 203 L.Ed.2d 77] [presumption of prejudice when attorney’s deficient performance costs defendant an appeal applies even when defendant signs an “appeal waiver”].

record, we are satisfied that Herrera received adequate and effective appellate review of the order entered against him in this case. (*People v. Wende, supra*, 25 Cal.3d at p. 441; accord, *People v. Kelly* (2006) 40 Cal.4th 106, 109-110.)

DISPOSITION

The judgment is affirmed.
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JOHNSON, J.

We concur:

ROTHSCHILD, P. J.

WEINGART, J.*

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