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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

GABRIEL AARON GONZALEZ,

Defendant and Appellant.

B281040

(Los Angeles County  
Super. Ct. No. VA118660)

APPEAL from an order of the Superior Court of Los Angeles County, Yvonne T. Sanchez, Judge. Affirmed.

Adrian K. Panton, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Gabriel Aaron Gonzalez appeals from a postjudgment order denying his motion to reverse the sentencing order imposing a restitution fine and victim restitution following his conviction for second degree murder. Gonzalez’s appointed counsel, after reviewing the record, identified no meritorious issues. Our own independent review of the record and contentions raised by Gonzalez in a supplemental brief similarly found no error. We affirm the order.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Gonzalez and three codefendants were convicted by a jury of second degree murder (Pen. Code,<sup>1</sup> § 187, subd. (a)) with true findings on gang enhancement allegations (§ 186.22, subd. (b)(1)) resulting from the stabbing death of Jose Ramos in 2011. In a bifurcated proceeding, the trial court found true the special allegations that Gonzalez had suffered prior serious or violent convictions within the meaning of section 667, subdivision (a)(1) and/or the Three Strikes law. (§§ 667, subds. (b)-(j), 1170.12.) The court sentenced Gonzalez to an aggregate state prison term of 30 years to life. Gonzalez appealed from the judgment, and this court affirmed his conviction and sentence. (*People v. Gonzalez et al.* (May 11, 2015, B252881) [nonpub. opn.] )

In January 2017, Gonzalez filed a motion to “vacate the order for restitution,” in which he challenged the trial court’s imposition under section 1202.4 of a \$280 restitution fine and \$9,395.67 in victim restitution as part of his sentence for the second degree murder conviction. The trial court summarily denied the motion. Gonzalez filed a timely notice of appeal.

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<sup>1</sup> Statutory references are to the Penal Code.

## DISCUSSION

We appointed counsel to represent Gonzalez on appeal. After reviewing the record, counsel filed an opening brief raising no issues. On June 22, 2017, we advised Gonzalez he had 30 days to submit a brief or letter raising any grounds of appeal, contentions, or arguments he wanted us to consider.

After granting one extension, on August 16, 2017, we received a typed four-page supplemental brief in which Gonzalez argued the restitution fine and victim restitution imposed by the trial court were unauthorized pursuant to *People v. Oganessian* (1999) 70 Cal.App.4th 1178.<sup>2</sup> *Oganessian* is readily distinguished because it involved a parole revocation fine under section 1202.45, which the appellate court confirmed applies to defendants, like Gonzalez, whose sentence includes the possibility of parole. (*Oganessian*, at pp. 1181-1183.) Gonzalez, however, is disputing the restitution fine or victim restitution under section 1202.4, which the trial court imposed in this case with full statutory authority. We have examined the record and are satisfied appellate counsel for Gonzalez has complied with his responsibilities and there are no arguable issues. (See *Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.)

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<sup>2</sup> Gonzalez raised additional challenges to the restitution award in his letter, none of which were raised below, and are thus not properly raised here.

## **DISPOSITION**

The order is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

BENSINGER, J.\*

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