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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.

HECTOR OROZCO,

Defendant and Appellant.

B298585

(Los Angeles County
Super. Ct. No. TA089787)

APPEAL from an order of the Superior Court of Los Angeles County, Allen J. Webster, Judge. Affirmed.

Ann Krausz, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

FACTUAL AND PROCEDURAL BACKGROUND

In March 2007 Hector Orozco demanded at gunpoint that a driver give him her car. The driver alerted the police, who arrested Orozco following a high-speed chase.

In September 2007 a jury convicted Orozco of carjacking (Pen. Code, § 215, subd. (a)) and found true the allegation he personally used a firearm in committing the offense (Pen. Code, § 12022.53, subd. (b)). The jury also convicted Orozco of evading a peace officer with wanton disregard for public safety (Veh. Code, § 2800.2, subd. (a)) and possession of a firearm by a felon (Pen. Code, former § 12021, subd. (a)(1), now § 29800, subd. (a)(1)).

In a bifurcated proceeding, Orozco admitted one of two alleged prior convictions for a serious or violent felony within the meaning of the three strikes law (Pen. Code, §§ 667, subds. (b)-(j), 1170.12) (the court dismissed the other) and a conviction for a serious felony within the meaning of Penal Code section 667, subdivision (a)(1). He also admitted he had served six separate prior prison terms for felonies within the meaning of Penal Code section 667.5, subdivision (b).

The trial court sentenced Orozco to an aggregate prison term of 34 years, four months, which included a five-year term for the serious felony conviction under Penal Code section 667, subdivision (a)(1). Orozco appealed, and we affirmed the judgment. (*People v. Orozco* (Mar. 3, 2010, B207039) [nonpub. opn.].) The remittitur issued on May 25, 2010.

On April 23, 2019 Orozco moved for resentencing under Senate Bill No. 1393, which as of January 1, 2019, gives the superior court discretion to strike or dismiss the formerly

mandatory five-year enhancement under Penal Code section 667, subdivision (a)(1). The superior court denied the motion. Orozco timely appealed.

DISCUSSION

We appointed counsel to represent Orozco on appeal. After reviewing the record, counsel filed a brief raising no issues. On September 5, 2019 we notified Orozco he had 30 days to submit a brief or letter raising any grounds of appeal, contentions, or arguments he wanted the court to consider. On September 16, 2019 we received a three-page handwritten supplemental brief in which Orozco argued the superior court wrongly denied his request for relief under Senate Bill No. 1393.

Senate Bill No. 1393 does not apply retroactively to cases like Orozco’s that were final prior to January 1, 2019. (*People v. Galindo* (2019) 35 Cal.App.5th 658, 664; see *People v. Garcia* (2018) 28 Cal.App.5th 961, 973 [“it is appropriate to infer, as a matter of statutory construction, that the Legislature intended Senate Bill 1393 to apply to all cases to which it could constitutionally be applied, that is, to all cases not yet final when Senate Bill 1393 [became] effective on January 1, 2019”].)

We have examined the entire record and are satisfied that Orozco’s appellate attorney has complied with her responsibilities and that there are no arguable issues. (See *Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746]; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.)

DISPOSITION

The order is affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

FEUER, J.