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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE GERMAN ZETINO,

Defendant and Appellant.

B264682

(Los Angeles County
Super. Ct. No. PA019262)

APPEAL from an order of the Superior Court of Los Angeles County, Cynthia L. Ulfig, Judge. Dismissed.

Richard Lennon, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala Harris, Attorney General, Lance Winters, Senior Assistant Attorney General, and Steven Mercer, Deputy Attorney General, for Plaintiff and Respondent.

Defendant, Jose German Zetino, purports to appeal from an order denying his motion to set aside the void judgment. We noted that we may not have jurisdiction because the order appealed from is not appealable under these circumstances. Thus, we issued an order to show cause concerning potential dismissal of the appeal. We have a duty to raise issues concerning our jurisdiction on our own motion. (*Jennings v. Marralle* (1994) 8 Cal.4th 121, 126; *Olson v. Cory* (1983) 35 Cal.3d 390, 398.) In addition, we judicially noticed defendant's two prior appeals. We previously affirmed the judgment of conviction but ordered resentencing. (*People v. Zetino* (Dec. 17, 1996, B096122) [nonpub. opn.].) After resentencing to an indeterminate sentence, we affirmed the judgment in its entirety. (*People v. Zetino* (Jan. 7, 1999, B119579) [nonpub. opn.].)

The gravamen of defendant's motion to set aside the void judgment is in the nature of a habeas corpus petition. The motion challenges his current sentence because it violates an alleged 1991 plea agreement and he was denied effective assistance of counsel. None of the issues presented to the trial court involve a jurisdictionally void sentence. (See *People v. Scott* (1994) 9 Cal.4th 331, 352, fn. 15; *People v. Crabtree* (2009) 169 Cal.App.4th 1293, 1327.) In all material respects, defendant's paperwork resembles a habeas corpus petition. The denial of a habeas corpus petition is not appealable. (*In re Clark* (1993) 5 Cal.4th 750, 767, fn. 7; *In re Hochberg* (1970) 2 Cal.3d 870, 876, disapproved on other grounds in *In re Fields* (1990) 51 Cal.3d 1063, 1070, fn. 3.) Further, the denial of a motion to vacate the judgment is ordinarily nonappealable on a ground which could have been raised on appeal from the judgment. The void sentence

contention challenges matters which could have been raised on direct appeal. (*People v. Banks* (1959) 53 Cal.2d 370, 378; *People v. Gallardo* (2000) 77 Cal.App.4th 971, 980.) Thus, we do not have jurisdiction to consider defendant's appeal.

The appeal is dismissed.

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TURNER, P. J.

We concur:

KRIEGLER, J.

BAKER, J.