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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.

HARRY ZELIG,

Defendant and Appellant.

B240037

(Los Angeles County
Super. Ct. No. BA120475)

APPEAL from an order of the Superior Court of Los Angeles County,
Larry P. Fidler, Judge. Appeal dismissed; petition denied.

Harry Zelig, in pro per.; and Richard B. Lennon, under appointment by the Court
of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Harry Zelig appeals an order denying his petition for writ of error *coram nobis* to vacate a 1997 conviction after jury trial of first degree murder using a firearm.

In 2011, while serving his sentence for an indeterminate term of 25 years to life plus four years as a determinate term for the gun use enhancement, Zelig filed a petition for writ of *coram nobis* alleging that he was incompetent to stand trial, that the trial court knew or should have known he was incompetent, and that his incompetency prevented him from pleading not guilty by reason of insanity.

The trial court denied the petition.

We appointed counsel to represent Zelig in this appeal. After examination of the record, counsel filed an opening brief in which no issues were raised.

On May 25, 2012, we advised Zelig that he had 30 days within which to personally submit any contentions or issues he wished us to consider. On June 14, 2012, Zelig filed a supplemental brief arguing that he did not cause his wife's death because the gunshot wound was survivable and that it was medical malpractice by her treating physicians that caused her death, and that his trial counsel was ineffective because he did not challenge the cause of death and failed to obtain psychiatric evidence of Zelig's mental illness to bolster his heat of passion defense.¹

Zelig's petition was improperly filed in the trial court. Where a judgment has been affirmed on appeal, a petition for writ of error *coram nobis* must be filed in the court that affirmed the judgment. (Pen. Code, § 1265, subd. (a).) To place this case in the proper procedural posture, we deem Zelig's appeal from the trial court's ruling to be an original petition in this court for a writ of error *coram vobis*. (See *People v. Brady* (1973) 30 Cal.App.3d 81, 83 [appeal from trial court's ruling on petition for writ of error *coram nobis* properly treated as *coram vobis* petition in the appellate court].)

The claims Zelig raises in his petition were raised in his appeal, could have been raised on appeal, or could have been raised in a petition for rehearing, review, or a writ of

¹ On September 11, 2012, we advised Zelig's counsel that we intended to dismiss Zelig's appeal and gave appointed counsel 10 days from the date of the notice to file a response. To date, we have received no response.

habeas corpus following the filing of the appellate opinion in case No. B110579. It is well settled that *coram nobis* or *coram vobis* does not lie to correct errors of law or to redress irregularities that could have been timely corrected by motion for new trial, appeal, or habeas corpus. (6 Witkin, Cal. Criminal Law (4th ed. 2012) Criminal Judgment, §§ 195-196, pp. 257-259; *People v. Hayman* (1956) 145 Cal.App.2d 620, 623.) Because Zelig had other remedies, his claims are not a proper basis for a petition for writ of error *coram nobis* or *coram vobis*. (*People v. Kim* (2009) 45 Cal.4th 1078, 1093, 1099.) ““The writ of error *coram nobis* is not a catch-all by which those convicted may litigate and relitigate the propriety of their convictions *ad infinitum*. . . . The writ of error *coram nobis* serves a limited and useful purpose. It will be used to correct errors of fact which could not be corrected in any other manner. But it is well-settled law in this and in other states that where other and adequate remedies exist the writ is not available.”” (*Id.* at p. 1094.) Nor are claims of ineffective assistance of counsel within the scope of *coram nobis*. (*Id.* at p. 1104; *People v. Gallardo* (2000) 77 Cal.App.4th 971, 982-983.) Having reviewed the entire record, we are satisfied that Zelig’s attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 443; *People v. Kelly* (2006) 40 Cal.4th 106, 126.)

DISPOSITION

The appeal is dismissed; the writ petition is denied.

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CHANNEY, J.

We concur:

MALLANO, P. J.

ROTHSCHILD, J.