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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

OSCAR RODOLFO BARRASCOUT,

Defendant and Appellant.

2d Crim. No. B280867  
(Super. Ct. No. CR26509)  
(Ventura County)

Oscar Rodolfo Barrascout appeals an order denying his recent post-judgment motion to vacate restitution orders (Pen. Code, § 1202.4)<sup>1</sup> issued after his 1990 conviction for first degree murder (§§ 187,189).

We appointed counsel to represent him on this appeal. After examination of the record, his counsel filed an opening brief requesting the court to make an independent review under *People v. Wende* (1979) 25 Cal.3d 436.

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

Barrascout has submitted a supplemental brief. He contends the trial court erred by denying his recent motion to vacate the trial court's restitution orders. He claims these restitution orders were unauthorized as a matter of law. We disagree.

In ruling on his motion, the trial court made the following findings: 1) Barrascout was convicted of first degree murder in 1990; 2) in 1990 he was sentenced to life without the possibility of parole; and 3) the sentencing court "imposed a \$2,800 restitution fine and also ordered [him] to pay victim restitution in the amount of \$7,200, pursuant to section 1202.4."

The trial court denied his motion to vacate the restitution orders and ruled, "The amounts of the fine and order were appropriate and *directly authorized by statute.*" (Italics added.) The trial court was correct in so ruling. (§ 1202.4; *People v. Brasure* (2008) 42 Cal.4th 1037, 1074-1075; *People v. Slattery* (2008) 167 Cal.App.4th 1091, 1097.)

Barrascout contends he is entitled to a reversal in light of *People v. Oganessian* (1999) 70 Cal.App.4th 1178. But that case is distinguishable. It involved a parole revocation fine under section 1202.45. That applies to defendants whose sentences include a potential parole period. Oganessian was sentenced to life without the possibility of parole, and consequently the parole revocation fine did not apply in that case.

Barrascout argues that he was also sentenced to life without the possibility of parole, and consequently the result in *Oganessian* should apply here. But Barrascout's case relates to restitution orders, not a parole revocation fine. These necessarily involve different orders for different purposes. It is well established that these restitution orders are well within the

sentencing court's statutory authority. (§ 1202.4; *People v. Brasure, supra*, 42 Cal.4th at p. 1074; *People v. Slattery, supra*. 167 Cal.App.4th at p. 1097 ["section 1202.4 is 'rational and constitutional'"].)

Barrascout contends his appointed counsel should have filed a brief on the merits in this appeal instead of a *Wende* brief. But after examination of the record, we are satisfied that appellant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at pp. 441, 443.)

The order denying Barrascout's motion to vacate is affirmed.

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GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Bruce A. Young, Judge  
Superior Court County of Ventura

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

No appearance for Plaintiff and Respondent.