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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

SAUL PELAYO,

Defendant and Appellant.

B290919

(Los Angeles County
Super. Ct. No. PA021870)

THE COURT:

Appellant Saul Pelayo appeals the order of the superior court denying his motion for resentencing under Senate Bill No. 620. (Pen. Code,¹ § 12022.5, subd. (c), as amended by Stats. 2017, ch. 682, § 1, eff. Jan. 1, 2018.)

Appellant was convicted in 1999 of second degree murder with personal use of a firearm. He was sentenced to prison for

¹ Undesignated statutory references are to the Penal Code.

15 years to life, with a 10-year firearm use enhancement. This Court affirmed the judgment in a non-published opinion filed October 4, 2000 (case No. B137409).

Acting in propria persona, appellant filed a motion in the superior court requesting resentencing in accordance with Senate Bill No. 620, which amended section 12022.5 to give the trial court authority to strike, in the interest of justice pursuant to section 1385, a firearm enhancement allegation found to be true.² (§ 12022.5, subd. (c).) The superior court denied the motion on June 11, 2018. In its written order, the superior court noted that after appellant's conviction and sentence were affirmed on October 4, 2000, the Supreme Court denied a petition for review on December 20, 2000 (case No. S092856), and the Court of Appeal later denied a petition for writ of habeas corpus on September 19, 2005 (case No. B185594). The superior court denied appellant's motion on the ground that the "case is final and there is no separate, independent ground for resentencing." Neither appellant nor the People were represented by counsel at the hearing.

Appellant timely appealed the superior court's ruling, and we appointed counsel to represent appellant. After examination of the record, counsel filed an opening brief raising no issues and asking this Court to independently review the record. We have examined the entire record and are satisfied that appellant's attorney has fully complied with her responsibilities and that no

² The motion was marked "received" on May 25, 2018, and filed on June 11, 2018.

arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109–110; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

DISPOSITION

The judgment is affirmed.

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LUI, P.J.,

CHAVEZ, J.,

HOFFSTADT, J.