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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

KEVIN WOODRUFF,

Defendant and Appellant.

B237895

(Los Angeles County
Super. Ct. No. BA231071)

APPEAL from an order of the Superior Court of Los Angeles County, Sam Ohta,
Judge. Dismissed.

Jill Ishida, under appointment by the Court of Appeal, for Defendant and
Appellant Kevin Woodruff.

No appearance for Plaintiff and Respondent.

Defendant Kevin Woodruff appeals from a post-judgment order denying his motion to modify or strike a \$10,000 restitution fine, imposed under Penal Code section 1202.4, subdivision (b).¹ His appointed counsel filed a *Wende* brief. (*People v. Wende* (1979) 25 Cal.3d 436.) On June 1, 2012, we directed appointed counsel to send the record and a copy of counsel's brief to defendant and notified defendant of his right to respond within 30 days. We received no response.

In November 2011, defendant filed a motion to modify or strike restitution fines. In the motion, defendant stated that he was sentenced to a term of 50 years to life in 2003.² He was ordered to pay restitution in the amount of \$10,000, and a parole revocation fine in the same amount. He claimed to be unable to pay these fines because he is indigent. Defendant attached an unorganized statement of points and authorities, discussing various subdivisions of section 1202.4, as well as other fines and fees. The trial court denied the motion, ruling that it was without jurisdiction to reduce the payment of the restitution fine under section 1202.4, subdivision (b). It also denied as untimely defendant's request for a hearing, which is not included in the record on appeal.

As explained in *People v. Turrin* (2009) 176 Cal.App.4th 1200, the trial court's order denying defendant's motion is not appealable since the court lacked jurisdiction to consider the motion and its order did not affect defendant's substantial rights. (*Id.* at p. 1208, citing § 1237, subd. (b).)

¹ All statutory references are to the Penal Code.

² We affirmed defendant's conviction of first degree murder with a firearm enhancement in *People v. Woodruff* (Oct. 15, 2004, No. B169489 [nonpub. opn.]).

DISPOSITION

The appeal is dismissed.

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EPSTEIN, P. J.

We concur:

MANELLA, J.

SUZUKAWA, J.