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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

IAN PATRICK GUTHRIE,

Defendant and Appellant.

D085217

(Super. Ct. No. SCD258303)

APPEAL from an order of the Superior Court of San Diego County,
Albert Harutunian III, Judge. Affirmed.

Carl Fabian, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

This appeal follows the denial of appellant's second petition to vacate
his murder conviction and is governed by the decision in *People v. Delgadillo*
(2022) 14 Cal.5th 216.

In 2016, a jury convicted Ian Patrick Guthrie of first-degree murder (Pen. Code,¹ § 187, subd. (a)). This court affirmed the conviction. (*People v. Johnson* (2019) 32 Cal.App.5th 26.) In 2020, Guthrie filed his first motion to vacate his conviction under section 1172.6 (formerly § 1170.95). The trial court denied the petition and this court affirmed the denial of the petition. (*People v. Guthrie* (Apr. 13, 2022, D079176) [nonpub. opn.].)

In 2024, Guthrie filed his second petition to vacate his conviction under section 1172.6. The trial court denied the petition without again appointing counsel.

Guthrie filed a timely notice of appeal.

Appellate counsel has filed a brief pursuant to *Delgadillo* indicating counsel has not been able to identify any potentially meritorious issues for reversal on appeal. Counsel asks this court to exercise its discretion to independently review the record for error in the same manner we would conduct such review under *People v. Wende* (1979) 25 Cal.3d 436. We offered Guthrie the opportunity to file his own brief on appeal, but he has not responded.

DISCUSSION

As we have noted, appellate counsel has filed a *Delgadillo* brief and asks the court to independently review the record for error. To assist the court in its review, and in compliance with *Anders v. California* (1967) 386 U.S. 738, counsel has identified a possible issue that was considered in evaluating the potential merits of this appeal: Whether the trial court's failure to appoint counsel for the second petition under section 1172.6 was prejudicial error.

¹ All statutory references are to the Penal Code.

We have exercised our discretion to independently review the record for error consistent with *Anders* and *Wende*. We have not discovered any potentially meritorious issues for reversal on appeal. Competent counsel has represented Guthrie on this appeal.

DISPOSITION

The order denying Guthrie's second petition under section 1172.6 is affirmed.

HUFFMAN, J.*

WE CONCUR:

McCONNELL, P. J.

DATO, J.

* Retired Associate Justice of the Court of Appeal, Fourth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.