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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

MIGUEL ANGEL GONZALEZ,

Defendant and Appellant.

B268983

(Los Angeles County
Super. Ct. No. BA425791)

APPEAL from an order of the Superior Court for the County of Los Angeles. Anne H. Egerton, Judge. Affirmed.

John F. Schuck, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

This is an appeal from an order awarding victim restitution and denying defendant Miguel Angel Gonzalez's oral motions during the restitution proceeding to withdraw his no contest plea and for a new trial.

After a preliminary hearing, defendant was charged by information with the March 1, 2014 murder of Carlos Perez in violation of Penal Code section 187, subdivision (a). (All statutory references are to the Penal Code.) The information alleged the murder was committed for the benefit of a criminal street gang (§ 186.22, subd. (b)(1)(C)), and also alleged three firearm use enhancements (§ 12022.53, subds. (d), (c)&(b)).

On September 3, 2015, the case was called for jury trial. A jury was sworn, opening statements were made, and testimony began on September 8, 2015.

On September 9, 2015, the trial court announced the parties had reached a plea agreement. Under the terms of the agreement, the prosecutor would move to amend the information to add a count 2, charging voluntary manslaughter (§ 192, subd. (a)), with an allegation of personal use of a firearm (§ 12022.5, subd. (a)) and a gang allegation (§ 186.22, subd. (b)(1)(C)); defendant would enter a plea to voluntary manslaughter and admit the firearm use and gang allegations; defendant would receive the high term of 11 years on count 2, plus 10 years for the firearm use (a total of 21 years); and the court would impose and stay the 10-year term on the gang enhancement.

The trial court granted the motion to amend the information. The district attorney explained to defendant the consequences of his plea on the record. Defendant confirmed his understanding of the terms of the plea agreement and its

consequences, and that he understood and waived his constitutional rights to jury trial, confrontation and cross-examination of witnesses, to present a defense and testify, to remain silent and the right against self-incrimination. Defendant then pled no contest to the voluntary manslaughter charge and admitted the firearm and gang allegations.

The trial court accepted defendant's plea, finding he knowingly and intelligently waived his constitutional rights; he entered the plea freely, voluntarily and with an understanding of its nature and consequences; and there was a factual basis for the plea based on the preliminary hearing transcript and the police report.

The trial court then sentenced defendant to an aggregate term of 21 years, in accordance with the plea agreement just described. In addition, the trial court ordered total custody credits of 532 days (463 actual days and 15 percent good time/work time (69 days)); restitution to the victim in accordance with a hearing to be held; a DNA sample and print impressions; a restitution fine of \$300; a parole revocation restitution fine (stayed); a court security fee of \$40; and a conviction assessment of \$30. The court then dismissed count 1, and scheduled a restitution hearing.

At the restitution hearing on October 21, 2015, defense counsel advised the court that defendant wished to address the court concerning withdrawal of his plea. The following colloquy then took place:

“THE DEFENDANT: It's too much time for me and my family. I'm too young to take all that time.

“THE COURT: Anything else you'd like to say?

“THE DEFENDANT: Anything lower?

“[DEFENSE COUNSEL]: Lower, something lower.

“THE COURT: Anything else you’d like to say?

“THE DEFENDANT: Can I get a better deal or something?

“THE COURT: I’m sorry?

“THE DEFENDANT: A better deal. I want to get a better deal.

“THE COURT: I can’t give you a better deal. [¶] Anything else you’d like to say?

“THE DEFENDANT: Can I get it retried?

“THE COURT: The oral motion to withdraw the plea is respectfully denied. The oral motion for a new trial is respectfully denied. There is no basis, statutory or otherwise, for either of the oral motions. This was a negotiated – instead of 50 to life, Mr. Gonzalez got a determinate term.”

The prosecutor then presented records to substantiate restitution in the amount of \$20,180.50 to be paid to the Victim Compensation and Government Claims Board. The records showed they were certified by the authorized custodian of the records, under penalty of perjury, as accurate reproductions of bills submitted to and paid by the Victim Compensation Program by or on behalf of the listed victims. The trial court found the amount appropriate and ordered defendant to pay that amount to the Board with 10 percent interest from October 21, 2015.

Defendant filed a timely appeal from the October 21, 2015 orders.

Defendant’s appointed counsel filed a *Wende* brief (*People v. Wende* (1979) 25 Cal.3d 436) requesting our independent review of the record. A declaration from counsel states that he wrote to

defendant explaining counsel's view of the record and the nature of the *Wende* brief he intended to file; informed defendant of his right to file a supplemental brief and to relieve him as counsel; informed defendant he would send defendant the client's copy of the record on appeal to aid him in the preparation of a supplemental brief, if any; and sent defendant a copy of the *Wende* brief. No supplemental brief has been filed.

We have reviewed the record on appeal. The record shows no error by the trial court.

In short, we are satisfied that defendant's appointed counsel has fully complied with her responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109-110; *People v. Wende, supra*, 25 Cal.3d at p. 441.)

DISPOSITION

The trial court's order is affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P.J.

RUBIN, J.