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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

HAROLD JOSEPH TASSIN,

Defendant and Appellant.

B269033

(Los Angeles County
Super. Ct. No. TA081194)

APPEAL from an order of the Superior Court of Los Angeles, Laura R. Walton,
Judge. Dismissed.

Joshua H. Schraer, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant, Harold Joseph Tassin, purports to appeal from an order denying his motion to vacate the judgment. We previously affirmed the judgment. (*People v. Tassin* (Sep. 19, 2008, B197553) [nonpub. opn.].) We have a duty to raise issues concerning our jurisdiction on our own motion. (*Jennings v. Marralle* (1994) 8 Cal.4th 121, 126; *Olson v. Cory* (1983) 35 Cal.3d 390, 398.) We noted defendant may be appealing from a non-appealable order. Thus, we issued an order to show cause and placed the matter on calendar.

The denial of a motion to vacate the judgment is ordinarily nonappealable. (*People v. Banks* (1959) 53 Cal.2d 370, 378; *People v. Gallardo* (2000) 77 Cal.App.4th 971, 980.) Contrary to defendants' contention, no fundamental jurisdictional issue is raised in connection with this appeal. In his response to the order to the show cause, the magistrate's failure to sign the felony complaint is alleged to create a jurisdictional defect. Defendant cites no authority for the proposition that a magistrate's failure to sign a felony complaint is a fundamental jurisdictional defect. Also, in some respects, defendant's paperwork resembles a habeas corpus petition. The denial of a habeas corpus petition is not appealable. (*In re Clark* (1993) 5 Cal.4th 750, 767, fn. 7; *In re Hochberg* (1970) 2 Cal.3d 870, 876, disapproved on other grounds in *In re Fields* (1990) 51 Cal.3d 1063, 1070, fn. 3.) Thus, defendant has not appealed from an appealable order.

The appeal is dismissed.

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TURNER, P. J.

We concur:

KRIEGLER, J.

BAKER, J.