

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID KING,

Defendant and Appellant.

C077551

(Super. Ct. No. 99F07845)

Defendant David King appeals from a post-judgment order dismissing, for lack of jurisdiction, his motion to strike his remaining restitution fine imposed pursuant to Penal Code section 1202.4, subdivision (b). His appointed counsel asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) We conclude the order dismissing defendant's motion to strike is not appealable; therefore, we shall dismiss the instant appeal.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

In July 2014, defendant filed a motion to strike what remained of the restitution fine imposed in March 2001. He argued that by ordering him to pay a restitution fine of \$10,000, the trial court had erred on various grounds. The trial court dismissed defendant's motion to strike for lack of jurisdiction.

The trial court's order denying defendant's motion to strike (or modify) the restitution fine is not appealable since the court lacked jurisdiction to consider the motion and its order did not affect defendant's substantial rights. (*People v. Turrin* (2009) 176 Cal.App.4th 1200, 1204-1208, citing Pen. Code, § 1237, subd. (b).)

DISPOSITION

The appeal is dismissed.

MURRAY, J.

We concur:

NICHOLSON, Acting P. J.

ROBIE, J.