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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

WAYNE TRUVOLL EVANS,

Defendant and Appellant.

D061689

(Super. Ct. No. SCD229300)

APPEAL from a judgment of the Superior Court of San Diego County, Michael T. Smyth, Judge. Affirmed.

Appellant Wayne Truvoll Evans pled guilty to one count of possession of a forged item. In exchange, other forgery related charges were dismissed. Evans also waived his rights under *People v. Harvey* (1979) 25 Cal.3d 754, 758.

The trial court conducted a separate hearing on Evans's restitution obligations. Evans waived his appearance and was represented by counsel, who permitted a law student to act on Evans's behalf at the hearing, but under counsel's direct supervision. At

the hearing, the prosecutor, relying on information provided by the probation department, stated that one of the victim's, North Island Federal Credit Union, was asking for \$2,083.12, and that the other victim, Los Angeles Freightliners, was requesting \$1,487.59. Evans's counsel, by way of statements made by the law student, stipulated to those amounts and stated: "We are willing to submit on the amounts, but reserve for the future in case we do come up with evidence to dispute the amount, your honor."

DISCUSSION

Evans's appointed appellate counsel has filed a brief setting forth the underlying facts and procedural history and presenting no argument for reversal but asking this court to review the record for error in accordance with *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to the following possible, but not arguable, issues: was Evans liable for any restitution and was the restitution imposed excessive?

We granted Evans permission to file a brief on his own behalf and he responded, raising a number of issues: Evans questions whether the law clerk who represented Evans at the restitution hearing, and was acting under the direct supervision of a licensed attorney, provided effective assistance of counsel. Evans questions whether the trial court erred in relying on a probation report which was not part of the record and whether it was err to award restitution with respect to one of the victims, Los Angeles Freightliners, when, as part of the plea bargain the allegations with respect to that victim were dismissed. Evans further questions whether the amount of restitution was arbitrary and capricious.

We have reviewed the entire record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and considered the possible issues referred to by counsel; we find no reasonably arguable appellate issue. The record shows there was no dispute at the time of the restitution hearing as to the amount of damage the victims suffered or their right to restitution and the trial court did not abuse its discretion in accepting the parties' agreement on those issue. In particular, because Evans's plea bargain included a *Harvey* waiver, appellant cannot challenge the imposition of restitution with respect to charges which were dismissed. Use of a law student in a relatively simple proceeding such as this, under the direct supervision of a licensed attorney, did not deprive Evans of the effective assistance of counsel. Moreover, where, as was the case here, there is no real dispute as to a defendant's liability or culpability, counsel is not required to raise meritless contentions. (See *People v. Price* (1991) 1 Cal.4th 324, 387.)

We also conclude Evans has been represented by competent counsel on this appeal.

DISPOSITION

The judgment is affirmed.

BENKE, J.

WE CONCUR:

McCONNELL, P. J.

AARON, J.