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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

BILLY BORNELL FRITZ,

Defendant and Appellant.

E060207

(Super.Ct.No. SCR47719)

OPINION

APPEAL from the Superior Court of San Bernardino County. R. Glenn Yabuno, Judge. Affirmed.

Tony Faryar Farmani, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury found defendant and appellant Billy Cornell Fritz guilty of murder (Pen. Code,¹ § 187, subd. (a), count 1), and two counts of assault with a deadly weapon (§ 245, subd.(a)(1), counts 2-3). On January 11, 1989, a trial court sentenced him to 25 years to life on count 1, plus five years on counts 2 and 3.² The minute order reflects that the court also ordered defendant to pay a restitution fine in the amount of \$10,000.

On September 17, 2013, defendant filed a motion to strike or modify the court-ordered restitution. In the motion, he alleged that he was ordered to pay restitution in the amount of “\$10,000, \$1,600, \$1,600. A total amount of \$13,200.” Defendant asserted that he was unable to pay the amount because he was in prison “with no available adequate paying jobs,” and he lost his outside support or other financial assistance. The court read and considered the motion and denied it on October 22, 2013.

Defendant filed a timely appeal. We affirm.

PROCEDURAL BACKGROUND

Defendant was convicted of one count of murder (§ 187, subd. (a)) and two counts of assault with a deadly weapon (§ 245, subd.(a)(1)).

DISCUSSION

Defendant appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979)

¹ All further statutory references will be to the Penal Code, unless otherwise noted.

² The abstract of judgment also reflects that defendant pled guilty to other charges on another date and was sentenced on those counts at the same time.

25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case and one potential arguable issue: whether the trial court abused its discretion in denying defendant's motion to strike or modify the court-ordered restitution. Counsel has also requested this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, which he has not done.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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HOLLENHORST
Acting P. J.

We concur:

RICHLI
J.

MILLER
J.