

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID LEDESMA, JR.,

Defendant and Appellant.

G046366

(Super. Ct. No. 06NF4409)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Francisco  
P. Briseno, Judge. Affirmed.

Richard Schwartzberg, under appointment by the Court of Appeal, for  
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

\* \* \*

Defendant has appeared before this court twice on this matter, appealing sentencing issues. He was convicted of the 2006 attempted murder of Jesus Ramirez (Pen. Code, § 187, subd. (a), § 664, subd. (a), count one),<sup>1</sup> and street terrorism (§ 186.22, subd. (a), count two). The jury also found it true that count one was committed for the benefit of a street gang (§ 186.22, subd. (b)(1)) and that he personally discharged a firearm causing great bodily injury (§ 12022.53, subd. (d).) (*People v. Ledesma* (Oct. 1, 2010, G042332 [nonpub. opn.] (*Ledesma I*).

At the original sentencing hearing, “[t]he court sentenced defendant to 40 years to life, which was comprised of a sentence of 15 years to life as to count one, and 25 years for the firearm enhancement on that count. The court struck the gang enhancement attached to count one. Defendant was sentenced to two years, to be served concurrently, on count two.” (*Ledesma I, supra*, G042332.) On appeal, we affirmed the conviction, but ordered the matter remanded for resentencing on count one, agreeing with both defendant and the Attorney General that the trial court had erred by imposing a sentence that contravened section 664, subdivision (a). (*Ledesma I, supra*, G042332.) We also ordered the court to stay sentence on count two pursuant to section 654. (*Ibid.*)

Upon remand, the court again sentenced defendant to 40 years to life, which was comprised of a sentence of 15 years to life on count one, and 25 years for the firearm enhancement on that count. The court struck the gang allegation on count one, and stayed sentence on count two. Defendant again appealed, arguing the sentence was unauthorized. (*People v. Ledesma* (Sept. 19, 2011, G044846 [nonpub. opn.] (*Ledesma II*)).) The Attorney General conceded the court had erred with respect to section 664, subdivision (a), and the case was again remanded. (*Ibid.*)

---

<sup>1</sup> Subsequent statutory references are to the Penal Code.

Defendant was once again resentenced in January 2012. On count one, the court imposed a sentence of life with a minimum of 15 years with a consecutive 25 years to life on the firearm enhancement. Sentence on count two was ordered stayed pursuant to section 654, and appropriate credits were awarded. The original abstract of judgment did not reflect the section 654 stay on count two, but in May 2012, the abstract was corrected nunc pro tunc to reflect the stay.

Defendant filed a notice of appeal, and we appointed counsel to represent him. Counsel filed a brief which set forth the facts of the case. Counsel did not argue against the client, but advised the court no issues were found to argue on defendant's behalf. We examine the entire record ourselves to see if any arguable issue is present. Because of the extremely limited issues cognizable on this third appeal, the record is quite brief and our review revealed no error. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was given 30 days to file written argument on his own behalf. That period has passed, and we have received no communication from defendant.

The judgment is affirmed.

MOORE, J.

WE CONCUR:

O'LEARY, P. J.

IKOLA, J.