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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

ALFRED GUTIERREZ,

Defendant and Appellant.

B276081

(Los Angeles County
Super. Ct. No. BA 424902)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Laura F. Priver, Judge. Affirmed.

Gloria C. Cohen, under appointment by the Court of Appeal,
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

An information, filed January 5, 2015, charged appellant Alfred Gutierrez with four counts of lewd acts on a child under the age of 14 years old, in violation of Penal Code, section 288, subdivision (a).¹ The information further alleged that all four counts were serious felonies, pursuant to section 1192.7, subdivision (c), and that count 1 was a violent felony, pursuant to section 667.5, subdivision (c). The information alleged further that Gutierrez had committed offenses defined in section 667.61, subdivision (c), against more than one victim, and that he was thus subject to a potential life sentence pursuant to section 667.61, subdivision (a).

At the preliminary hearing in the case, Gutierrez's adult daughter testified that, on multiple occasions beginning when she was about five years old, Gutierrez touched her private parts and made her touch his penis. She also testified that on multiple occasions, he made her perform oral sex on him. The six-year-old daughter of Gutierrez's ex-girlfriend also testified at the preliminary hearing. She stated that on one occasion, Gutierrez told her to touch his private parts, and that she did so.

On May 25, 2016, the trial court granted the prosecutor's motion to amend the information to add a fifth count of continuous sexual abuse of a child, in violation of section 288.5, subdivision (a). Gutierrez then accepted a plea bargain, under the terms of which he pled no contest to one count of a lewd act on a child under the age of 14 years old and one count of continuous sexual abuse of a child. The trial court dismissed the remaining three counts of lewd acts on a child under the age of 14 years old. The trial court sentenced Gutierrez to 12 years in prison. The trial court denied Gutierrez's petition for a certificate of probable cause for an appeal.

¹ Unless otherwise specified, subsequent statutory references are to the Penal Code.

We appointed counsel to represent Gutierrez in the appeal. After examining the record, counsel filed a *Wende* brief raising no issues on appeal and requesting that we independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) On March 17, 2017, we sent a letter to Gutierrez and to counsel. In the letter, we directed counsel to immediately send the record on this appeal and a copy of the *Wende* brief to Gutierrez and informed Gutierrez that he had 30 days to submit by letter or brief any ground of appeal, contention or argument he wished us to consider. We did not receive a response from him.

We have reviewed the entire record on appeal. Because the trial court denied Gutierrez's petition for a certificate of probable cause, we may not consider any issue affecting the validity of Gutierrez's plea. (See Cal. Rules of Court, rule 8.304(b).) We are satisfied that Gutierrez's counsel has fully complied with her responsibilities and that no arguable appellate issue exists. (*People v. Wende, supra*, 25 Cal.3d at p. 441; *People v. Kelly* (2006) 40 Cal.4th 106, 110.)

DISPOSITION

The judgment of the trial court is affirmed.

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ROTHSCHILD, P. J.

We concur:

CHANEY, J.

JOHNSON, J.