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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

KANEISHA TANNAY BYERS,

Defendant and Appellant.

B276851

(Los Angeles County  
Super. Ct. No. MA067676)

APPEAL from a judgment of the Superior Court of  
Los Angeles County, Christopher G. Estes, Judge. Affirmed.

Lori A. Quick, under appointment by the Court of Appeal,  
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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After she attacked a woman in a parking lot and stole her cell phone, Kaneisha Tannay Byers was arrested and charged in an information with second degree robbery and aggravated assault. The information specially alleged Byers had personally inflicted great bodily injury in the commission of both offenses, had suffered one prior violent or serious felony conviction within the meaning of the three strikes law (Pen. Code, §§ 667, subds. (b)-(i), 1170.12) and a serious felony conviction under Penal Code section 667, subdivision (a)(1), and had served a separate prison term for a felony (Pen. Code, § 667.5, subd. (b)).

After waiving her right to a jury trial, Byers entered a negotiated plea of no contest to second degree robbery (Pen. Code, §§ 211, 212.5, subd. (c)) and admitted the prior strike conviction. The record of the plea hearing established Byers was advised of and waived her constitutional rights and was advised of and acknowledged she understood the consequences of her plea. Counsel stipulated to a factual basis for the plea. The trial court found Byers had knowingly, voluntarily and intelligently waived her constitutional rights and entered her no contest plea.

Byers's plea agreement called for her to be sentenced to an aggregate state prison term of four years. Byers agreed, as a *Cruz* waiver, that if she failed to appear for sentencing, the trial court could sentence her to up to 10 years in state prison. (*People v. Cruz* (1988) 44 Cal.3d 1247, 1254, fn. 5 [defendant fully advised of his or her rights under Penal Code section 1192.5 precluding sentence on plea to punishment more severe than specified in plea agreement may waive those rights]).

Byers did not appear for sentencing. The trial court issued a bench warrant, and Byers was arrested and remanded into custody.

At the sentencing hearing Byers agreed to waive all presentence custody credits for having violated the terms of her *Cruz* waiver. The trial court sentenced Byers in accordance with the plea agreement to a four-year state prison term (the lower two-year term doubled under the three strikes law) for second degree robbery. The court ordered Byers to pay statutory fines, fees and assessments and restitution to the victim, Tracy Samuel. Byers was awarded no presentence custody credits. The remaining counts and allegations were dismissed on the People's motion.

Byers filed a timely notice of appeal in which she checked the preprinted box indicating, "This appeal is based on the sentence or other matters occurring after the plea that do not affect the validity of the plea." Byers did not seek a certificate of probable cause.

We appointed counsel to represent Byers on appeal. After examination of the record, counsel filed an opening brief in which no issues were raised. On December 12, 2016 we advised Byers she had 30 days within which to submit any contentions or issues she wished us to consider. We have received no response.

A criminal defendant who appeals following a plea of no contest or guilty without a certificate of probable cause can only challenge the denial of a motion to suppress evidence or raise grounds arising after the entry of the plea that do not affect the plea's validity. (Cal. Rules of Court, rule 8.304(b)(1).)

We have examined the record with respect to potential sentencing or post-plea issues that do not in substance challenge the validity of the plea itself and are satisfied Byers's appellate attorney has fully complied with the responsibilities of counsel and no arguable issue exists. (*Smith v. Robbins* (2000) 528 U.S.

259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.)

### DISPOSITION

The judgment is affirmed.

PERLUSS, P. J.

We concur:

ZELON, J.

SMALL, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.