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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

DEBBIE HOYOS,

Defendant and Appellant.

B241602

(Los Angeles County  
Super. Ct. No. MA052834)

APPEAL from a judgment of the Superior Court of Los Angeles County, Charles A. Chung, Judge. Affirmed.

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

No appearance for respondent.

## **INTRODUCTION**

Defendant and appellant Debbie Hoyos appeals from a judgment following her no contest plea to vandalism over \$400—graffiti. The trial court suspended imposition of sentence and placed defendant on formal probation for three years. We affirm.

## **PROCEDURAL BACKGROUND**

The District Attorney of Los Angeles County filed an information that charged defendant with 10 counts of vandalism over \$400—graffiti. (Pen. Code, § 594, subd. (a)<sup>1</sup>.) The information alleged that defendant committed the offenses for the benefit of, at the direction of, and in association with a criminal street gang with the specific intent to promote, further and assist in criminal conduct by gang members. (§186.22, subd. (b)(1)(A).) Defendant pleaded not guilty to all counts and denied the gang allegations.

Defendant filed a motion to quash and traverse the October 22, 2010, search warrant authorizing the search of Herman Loc’s “Myspace” user profile; a motion to quash and traverse the May 5, 2011, search warrant authorizing the search of the home she shared with her brother—the subject of the search warrant; a section 1538.5 motion to suppress evidence seized during the May 17, 2011, search of her home; and a motion to quash and traverse the search warrant authorizing a search of her “Facebook” profile.<sup>2</sup> Each of the motions to quash and traverse the search warrants also sought to suppress the seized evidence. At the preliminary hearing, the trial court denied each of defendant’s suppression motions.

After the preliminary hearing, defendant filed a section 1538.5 motion to suppress evidence in the Superior Court. The motion challenged the search of defendant’s

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<sup>1</sup> All statutory citations are to the Penal Code unless otherwise noted.

<sup>2</sup> The record on appeal is somewhat unclear as to the motions defendant filed. The trial court observed that defendant filed three section 1538.5 motions. It appears that the trial court referred to the motions to quash and traverse the search warrants as section 1538.5 motions. We have reviewed the Superior Court file and determined that it comports with our description of defendant’s motions.

backpacks, computer, and iPod, and sought to traverse the search warrant for her Facebook account. The trial court denied the motion. Defendant then waived her constitutional rights, withdrew her not guilty plea as to the first count of vandalism, and pleaded no contest to that count. The trial court placed defendant on formal probation for a period of three years pursuant to various terms and conditions. The trial court dismissed the remaining counts.

Defendant appeals from the trial court's April 24, 2012, order denying her motion to suppress. In connection with her notice of appeal, defendant requested a certificate of probable cause with respect to the motions to suppress evidence and to quash the search warrants that were heard at the preliminary hearing and "renewed" in the Superior Court. The trial court did not rule on the request.

We appointed counsel to represent defendant in this appeal. After examining the record, counsel filed an opening brief in accordance with *People v. Wende* (1979) 25 Cal.3d 436 requesting this court to conduct an independent review of the record to determine if there are any arguable issues. On August 27, 2012, we gave notice to defendant that counsel had failed to find any arguable issues and that defendant had 30 days within which to submit by brief or letter any grounds of appeal, contentions, or arguments she wished this court to consider. Defendant did not submit a brief or letter.

### **FACTUAL BACKGROUND**

On May 17, 2011, Los Angeles County deputy sheriffs searched defendant's home in Palmdale pursuant to a search warrant. Deputy Thomas Inocente searched defendant's bedroom. When Deputy Inocente entered defendant's bedroom, he observed graffiti style writing on the walls. During the search, the deputy found a laptop computer. Stored on the computer were photographs apparently depicting graffiti style writing, including the names "Debs," "Annoy," and the initials "FDK." Prior to the search, Deputy Inocente had been briefed that tagging monikers of interest for that location included "Annoy" and "FDK."

Deputy Inocente found a backpack in defendant's closet that contained paperwork and notebooks with graffiti style writing and spray paint cans and stencils. In the deputy's experience, spray paint cans and stencils are commonly used for graffiti and vandalism associated with tagging. The deputy found a second backpack on defendant's bed that bore the name "Debs." Inside the backpack was a small pouch that also bore the name "Debs" and held a plastic pill bottle that contained a substance that resembled marijuana. Deputy Inocente also found an iPod in defendant's bedroom. The iPod stored additional pictures of what appeared to be graffiti style writing.

Deputy Lauren Brown was the affiant for the search warrant. Deputy Brown had previously seen the moniker "Debs," but was unable to identify the person associated with that moniker prior to service of the search warrant. The deputy identified defendant as "Debs" because graffiti found in the bedroom and on social media posts matched graffiti found on the graffiti tracker. According to Deputy Brown, "FDK" was a gang. Deputy Brown opined that defendant was a member of the FDK gang and testified that he was able to connect defendant to the FDK gang through, among other things, photographs from defendant's computer and iPod. After the deputy advised defendant of her *Miranda* rights, defendant denied that she was a member of FDK. Defendant also denied that she had a moniker, but said that her family called her "Debs." Deputy Brown stated that defendant's brother was known as "Annoy." Deputy Brown opined that defendant committed the vandalism alleged in this case in association with, at the direction of, and for the benefit of a criminal street gang.

## **DISCUSSION**

We appointed counsel to represent defendant in this appeal. After examining the record, counsel filed an opening brief asking this court to independently review the record in accordance with *People v. Wende, supra*, 25 Cal.3d 436. On August 27, 2012, we gave notice to defendant that counsel had failed to find any arguable issues and that defendant had 30 days within which to submit by brief or letter any grounds of appeal, contentions, or arguments she wished this court to consider. Defendant did not submit a

brief or letter. We have examined the entire record and are satisfied that defendant's counsel has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

**DISPOSITION**

The judgment is affirmed.

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MOSK, J.

We concur:

ARMSTRONG, Acting P. J.

KRIEGLER, J.