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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

ANGELINA SANTISTEVAN,

Defendant and Appellant.

B284505

(Los Angeles County
Super. Ct. No. BA439096)

APPEAL from a judgment of the Superior Court of Los Angeles County, Richard S. Kemalyan, Judge. Affirmed in part and vacated in part.

Lynette Gladd Moore, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Steven D. Matthews and Analee J. Brodie, Deputy Attorneys General, for Plaintiff and Respondent.

An information charged Angelina Santistevan with driving or taking a vehicle without consent (Veh. Code, § 10851, subd. (a); count 1) and receiving stolen property (Pen. Code, § 496, subd. (a); count 2). On May 17, 2016, Santistevan entered into a conditional plea to count 1, and sentencing was continued for one year. Having failed to comply with the conditions of her plea, the trial court, on July 5, 2017, sentenced her to 16 months in jail on count 1 *and* to a concurrent 16 months on count 2.

Santistevan appealed, contending only that the sentence on count 2 should have been stayed under Penal Code section 654. We requested supplemental briefing, because our preliminary review of the record showed that at the May 17, 2016 hearing, Santistevan entered a plea as to count 1 only. According to the July 5, 2017 minute order, the court treated the plea agreement as an “open plea.” The minute order incorrectly stated that Santistevan pleaded no contest to count 2. The July 5, 2017 reporter’s transcript, however, shows that Santistevan did not enter a plea as to count 2. No plea having been taken and entered as to count 2, the sentence was void. (See *People v. Roth* (2017) 17 Cal.App.5th 694, 705, fn. 2.) Therefore, the sentence on count 2 must be vacated.

DISPOSITION

The sentence on count 2 is vacated. In all other respects, the judgment is affirmed.

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DHANIDINA, J.

We concur:

EDMON, P. J.

EGERTON, J.