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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.

LUIS ALONSO HERNANDEZ  
AMAYA,

Defendant and Appellant.

B278794

(Los Angeles County  
Super. Ct. No. BA439758)

APPEAL from a judgment of the Superior Court of Los Angeles County, William N. Sterling, Judge. Affirmed.

Patricia A. Scott, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

The Los Angeles County District Attorney charged defendant Luis Alonso Hernandez Amaya (defendant) with one count of sexual intercourse with a child 10 years old or younger (Pen. Code, § 288.7(a)),<sup>1</sup> one count of sexual penetration with a child 10 years old or younger (§ 288.7(b)), one count of oral copulation with a child 10 years old or younger (§ 288.7(b)), and two counts of committing a lewd act upon a child under the age of 14 (§ 288(a)). The People further alleged defendant committed the lewd act offenses against more than one victim, thereby subjecting him to an enhanced sentence. (§ 667.61(b), (c)(8) & (e)(4).)

The charges against defendant arose from his conduct involving his daughter, K.V., and stepdaughter, A.L., both of whom testified at trial. A.L. testified that when she was eight years old defendant kissed her vagina on one occasion and, on another occasion, penetrated her with his penis. In a phone call with A.L. that the police recorded, defendant admitted to performing “oral sex” on her when she was a child. K.V. testified defendant undressed and touched her genital area on two occasions when she was five years old.

The jury convicted defendant of the three counts pertaining to A.L.: sexual intercourse with a child 10 years old or younger, oral copulation with a child 10 years old or younger, and commission of a lewd act upon a child under the age of 14. The jury hung, on a vote of 11 to one in favor of finding defendant guilty, on the other two charges, which pertained to K.V. The

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<sup>1</sup> Undesignated statutory references that follow are to the Penal Code.

court declared a mistrial as to those counts and struck the allegation regarding multiple victims.

The trial court sentenced defendant to a prison term of 40 years to life: 25 years to life on the sexual intercourse conviction and 15 years to life, to be served consecutively, on the oral copulation conviction. The court stayed the sentence imposed for the lewd act conviction pursuant to section 654.

Defendant filed a notice of appeal, and this court appointed counsel to represent him. After examining the record, defense counsel filed an opening brief raising no issues. Defense counsel concurrently submitted a letter directly to the trial court, notifying it of an error in its calculation of defendant's presentence credits. The trial court subsequently issued a nunc pro tunc order correcting defendant's number of custody credits, and the correction was reflected in an amended abstract of judgment. On February 28, 2017, this court advised defendant he had 30 days to personally submit any contentions or issues he wished us to consider. We received no response.

We have examined the record provided to us, and we are satisfied defendant's attorney on appeal has complied with the responsibilities of counsel and no arguable issue exists. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-82; *People v. Kelly* (2006) 40 Cal.4th 106, 122-24; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

DISPOSITION

The judgment is affirmed.

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BAKER, J.

We concur:

KRIEGLER, Acting P.J.

DUNNING, J.<sup>\*</sup>

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<sup>\*</sup> Judge of the Orange County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.