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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.

KENDELL BERON TOLBERT,

Defendant and Appellant.

B271699

(Los Angeles County  
Super. Ct. No. TA138542)

APPEAL from a judgment of the Superior Court of Los Angeles County, John Joseph Cheroske, Judge. Affirmed.

Janet Uson, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Kendell Beron Tolbert appeals from the judgment entered following his negotiated plea of no contest to charges of pimping and robbery. We affirm.

## **FACTUAL AND PROCEDURAL BACKGROUND**

Tolbert attacked a woman, who had stopped working for him as a prostitute, and took her cell phone. He was charged in an amended information with one count each of pimping (Pen. Code, § 266h, subd. (a)), second degree robbery (*id.*, § 211) and human trafficking (*id.*, § 236.1, subd. (a)).

After the trial court granted Tolbert's motion to dismiss the human trafficking count, Tolbert pleaded no contest to the remaining counts of pimping and robbery. As part of the negotiated plea, the prosecutor agreed not to file weapons charges arising from an incident that had occurred while Tolbert had been released on bail.

The record of the plea hearing established Tolbert was advised of and waived his constitutional rights and was advised of and acknowledged he understood the consequences of his plea. Counsel stipulated to a factual basis for the plea. The trial court found Tolbert had knowingly, voluntarily, and intelligently waived his constitutional rights and entered his no contest plea.

The trial court sentenced Tolbert to the upper term of six years for pimping and a concurrent term of five years for second degree robbery. The court ordered Tolbert to pay statutory fines, fees, and assessments. Tolbert was awarded seven days of presentence custody credits.

Tolbert filed a timely notice of appeal from the judgment in which he checked the preprinted box stating, "This appeal is

based on the sentence or other matters occurring after the plea that do not affect the validity of the plea.” Tolbert did not obtain a certificate of probable cause.

## DISCUSSION

We appointed counsel to represent Tolbert on appeal. After examination of the record, counsel filed an opening brief in which no issues were raised. On January 4 and February 3, 2017,<sup>1</sup> we advised Tolbert he had 30 days within which to submit any contentions or issues he 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 assert 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 Tolbert’s appellate attorney has fully complied with the responsibilities of counsel

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<sup>1</sup> Although the notice was returned and marked undeliverable, the address was confirmed as correct. The notice was resent to the same address and has not been returned. When we appointed appellate counsel for Tolbert, we directed Tolbert “to keep the court informed of his/her mailing address at all times. If you move, you **MUST** notify the clerk of this court immediately; otherwise you may not receive important notices concerning your appeal.” Tolbert has not provided any information to indicate the address to which we resent the notice was incorrect.

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.

MENETREZ, J.\*

We concur:

ZELON, Acting P.J.

SEGAL, 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.