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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

FELIPE VALLE AGUILAR,

Defendant and Appellant.

B242255

(Los Angeles County  
Super. Ct. No. BA384074)

APPEAL from an order of the Superior Court of Los Angeles County.

Sam Ohta, Judge. Affirmed.

Linn Davis, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Felipe Aguilar pleaded no contest to one count of a lewd act upon a child under the age of 10 years (Pen. Code, § 288.7, subd. (b)),<sup>1</sup> and one count of continuous sexual abuse of a child under the age of 14 years (§ 288, subd. (a)). In return, the trial court sentenced Aguilar to an aggregate term of 16 years in state prison. Aguilar appeals an order denying his motion to withdraw his plea. We affirm.

### **FACTS**

Leslie S. and her mother contacted police and reported sexual abuse by Aguilar, the husband of the family's babysitter. Police interviewed other minors who were cared for in the Aguilar home. Another child, Nancy T., also reported sexual abuse.

In May 2011, the People filed an information charging Aguilar with the following charges, involving minors under the age of 10 and 14: oral copulation/sexual penetration of Leslie S. (count 1, § 288.7, subd. (b)); continuous sexual abuse of Leslie S. (count 2, § 288.5, subd. (a)); lewd act upon Leslie S. (count 3, § 288, subd. (a)); continuous sexual abuse of Nancy T. (count 4, § 288.5, subd. (a)); sending harmful matter to a minor (count 5, § 288.2, subd. (a)); and possession of matter depicting minor engaging in sexual conduct (count 6, § 311.11, subd. (a)). As to counts, 2, 3, and 4, the information alleged the offenses were committed against more than one victim within the meaning of section 667.61, subdivisions (b) and (c), and section 1203.066, subdivision (a)(7).

Aguilar was represented by private counsel. The case was called for trial and jury selection began. The next day, before the jurors returned to the courtroom, the parties discussed offers and counteroffers, ultimately reaching an agreement contemplating a 16-year term. Aguilar waived his constitutional trial rights, and pleaded no contest to count 3 (lewd act upon Leslie S.; a child under the age of 14 years; § 288, subd. (a)) and count 4 (continuous sexual abuse of Nancy T., a child under the age of 14 years; § 288.5, subd. (a)). The trial court ordered a Static-99 report, and set a sentencing hearing.

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<sup>1</sup> All further section references are to the Penal Code.

Prior to the sentencing hearing, Aguilar filed two motions on his own behalf – a motion to withdraw his plea and a request for a *Marsden*<sup>2</sup> hearing. The trial court granted Aguilar’s oral motion to relieve his private counsel. The court then appointed the Public Defender to represent Aguilar and the matter was continued to allow new counsel time to review the case.

Thereafter the deputy public defender representing Aguilar filed a motion to withdraw his plea. In an accompanying declaration, Aguilar stated he was “coerced” to enter his plea by his retained counsel. The trial court denied Aguilar’s motion to withdraw his plea.

The trial court sentenced Aguilar to a total aggregate term of 16 years in state prison as follows: an upper term of 16 years on count 4, and a concurrent upper term of 8 years on count 3. Custody credits were determined and fines and assessments were imposed. The court ordered Aguilar to register as a convicted sex offender.

Aguilar filed a timely notice of appeal.

### **DISCUSSION**

We appointed counsel to represent Aguilar on appeal. Appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, requesting that this court review the record on appeal for arguable issues. On September 12, 2012, we notified Aguilar by letter that he could submit any claims, arguments or issues which he wished us to review. Aguilar has not responded to our letter.

We have independently reviewed the record on appeal, and are satisfied that Aguilar’s appointed counsel fulfilled his duty, and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d 436, *People v. Kelly* (2006) 40 Cal.4th 106.)

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<sup>2</sup> See *People v. Marsden* (1970) 2 Cal.3d 118 [criminal defendant has right to hearing on whether grounds exist to replace court-appointed defense counsel].)

**DISPOSITION**

The order is affirmed.

BIGELOW, P. J.

We concur:

FLIER, J.

GRIMES, J.