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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

CESAR GALVEZ,

Defendant and Appellant.

B249008

(Los Angeles County
Super. Ct. No. VA127731)

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

Edward H. Schulman, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

FACTUAL AND PROCEDURAL BACKGROUND

On December 3, 2012, 16-year old S. G. was at home with her biological father, defendant Cesar Galvez. While she was working at her computer on a school project, defendant came up behind her, grabbed her breasts and attempted to touch her vagina. She moved to block defendant's access to her body and he walked away. Soon thereafter, defendant reentered the room, approached S. G., and again grabbed her breasts and touched her vagina. Later on, he pulled her into his bedroom and pushed her onto the bed. He kissed her neck, groped her breasts underneath her shirt, and touched her vagina.

That day, S. G. went to school and spoke to her school counselor about her father's sexual abuse. She told the counselor that the abuse had been occurring "[s]ince she was a small, little girl." The police were contacted and arrested defendant that day.

Two days later, Detective Edgar Gomez interviewed defendant. Defendant, still in custody, was advised of and waived his *Miranda* rights. Initially, defendant denied his daughter's accusations. However, as the interview progressed, he admitted that he had engaged in sexual intercourse with S. G. "at least four to five times" while she was in the fourth to sixth grades. He also admitted that while he was at home with S. G. on December 3, he had become "sexually aroused" and had "fall[en] on top of her" and "kiss[ed] her."

Defendant agreed to write a letter of apology to his daughter. It reads, in pertinent part: "S., my daughter, forgive me for the harm that I've done to you since you were in the 4th grade. I want you to forgive me for all the incidents. It was never my intention to do harm to you but sometimes you were the one looking for me. Remember that when I was asleep, you would come. And it was my fault for not rejecting you, but, Fani, forgive me, and I love you a lot."

The People filed a 10-count information against defendant. Counts 1 through 3 alleged defendant had committed lewd acts upon S. G. between 2001 and 2002 when she was five to six years old. (§ 288, subd. (a).)¹ Count 4 alleged defendant had committed an aggravated sexual assault (oral copulation) upon S. G. between 2001-2002. (§ 269, subd. (a)(4).) Counts 5 through 8 alleged defendant had committed aggravated sexual assaults (rape) upon S. G. between 2002 and 2009. (§ 269, subd. (a)(1).) Lastly, counts 9 and 10 alleged defendant committed lewd acts upon S. G. between 2010 and 2012. (§ 288, subd. (c)(1).)

Defendant was tried by jury. Evidence about the events set forth in the previous paragraphs was presented. In addition, S. G. testified in detail about the sexual abuse that her father had committed since she was five or six years old, including multiple acts of sexual intercourse.

Defendant testified on his behalf. He denied having ever sexually abused S. G. and denied having told Detective Gomez that he had had sexual intercourse with his daughter when she was in the fourth grade. He categorized his daughter's trial testimony as a lie but could not explain why she "would . . . lie about all those things." His letter was not an apology for sexual abuse but was executed only to comfort S. G. who, Detective Gomez had told him, was "very hurt" about "something that happened in the 4th grade." Defendant did not compose the letter, but, instead, wrote what Detective Gomez dictated to him.

The jury could not reach a verdict on the first four counts. The court declared a mistrial and later dismissed the charges. However, the jury did convict defendant of the last six counts.

The trial court sentenced defendant to an aggregate term of 63 years and 8 months to life calculated as follows. As to counts 5 through 8, the court imposed 4

¹ All statutory references are to the Penal Code.

consecutive indeterminate terms of 15 years to life. As to counts 9 and 10, the court imposed consecutive terms, respectively, of 3 years (the high term) and 8 months (one-third of the middle term). (The trial court rejected defense counsel's request for concurrent terms.)

DISCUSSION

After review of the record, defendant's court-appointed appellate counsel filed an opening brief asking this court to review the record independently pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441.

Defendant was advised of his right to file a supplemental brief within 30 days raising any contentions that he wished us to consider. No response has been received to date.

We have examined the entire record and are satisfied that no arguable issues exist, and that defendant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

DISPOSITION

The judgment is affirmed.

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WILLHITE, Acting P. J.

We concur:

MANELLA, J.

EDMON, J.*

*Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.