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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JUAN DIAZ,

Defendant and Appellant.

B245652

(Los Angeles County
Super. Ct. No. TA122914)

THE COURT:*

Appellant Juan Diaz (Diaz) appeals from the judgment of conviction following a plea of no contest.

Statement of the Case

An amended information filed September 12, 2012, charged Diaz with five counts of committing a lewd act upon a child, E.M., under the age of 14, between January 15, 2012, and April 8, 2012, in violation of Penal Code section 288, subdivision (a). As to count 1, it was further alleged that Diaz inflicted great bodily injury within the meaning

* BOREN, P. J., ASHMANN-GERST, J., FERNS, J.†

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

of Penal Code section 12022.8. Counts 7 through 9 charged codefendant Adela V. (mother) with dissuading a witness from reporting a crime (Pen. Code, § 136.1, subd. (b)(1)), corporal injury to a child (Pen. Code, § 273d, subd. (a)), and accessory after the fact (Pen. Code, § 32).

Later, as to Diaz, the information was amended to add count 10, continuous sexual abuse of a minor between January 15, 2012, and April 8, 2012, and count 11, lewd act upon a child under 14 years old by force.

Diaz waived his rights, entered a no contest plea to counts 10 and 11, and admitted the great bodily injury enhancement. He was sentenced to serve a total of 25 years in state prison, computed as follows: On count 11 (Pen. Code, § 288, subd. (b)), the midterm of eight years, plus five years for the Penal Code section 12022.8 enhancement; on count 10, the midterm of 12 years (Pen. Code, § 288.5).

Diaz timely filed a notice of appeal, arguing “Sixth Amendment violations, including but not limited to ineffective assistance of counsel, and but for the Sixth Amendment violations the results would have been different.”

Factual Background

On April 19, 2012, at around 1:00 p.m., Deputy Sheriff Salvador Ponce responded to a call of a possible sex crime at an abortion clinic. Deputy Ponce interviewed E.M., who was there with her mother and Diaz.

E.M. told Deputy Ponce that she had been raped by Diaz and that she was at the clinic to have an abortion. She told him that between January and April 2012, Diaz would rape her twice a week. The first incident occurred in the middle of January. She was washing dishes when Diaz came up behind her and started touching her. He took her to the bedroom, took off her clothes and his clothes, and laid her down on the bed. He put his penis in her vagina, pushing it in and out. Afterwards, he got up, went to the bathroom and washed off, and told her to do the same.

E.M. told the deputy that most of the incidents occurred in the same manner, except one time, when the intercourse took place in the bathroom.

She further told the deputy that on April 16, 2012, when she got home from school, her mother asked her what was wrong. E.M. told her mother that Diaz had raped her. Mother called Diaz to find out if E.M.'s accusations were true, and Diaz admitted that the allegations were true. Mother took E.M. to a clinic and discovered that E.M. was pregnant.

E.M. further informed the deputy that mother had instructed her to “keep . . . quiet” or she would have her deported. Mother wanted E.M. to have an abortion so that no one would know that Diaz had raped her.

Detective Stephen Reid conducted a follow-up interview with E.M. She described three incidents of rape to him. Detective Reid also interviewed Diaz after Diaz had waived his rights. Diaz told Detective Reid about the three incidents of sexual intercourse described by E.M. Diaz then stated that he believed that there were two other incidents where he placed his penis between her buttocks.

Discussion

Counsel was appointed to represent Diaz in connection with this appeal. After examination of the record, counsel filed an “Opening Brief” in which no arguable issues were raised. On June 11, 2013, we advised Diaz that he had 30 days within which to personally submit any contentions or issues for us to consider. No response has been received to date.

We have examined the entire record and are satisfied that Diaz's appellate counsel has fully complied with her responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441.) We see no indication that Diaz's Sixth Amendment rights were violated. Accordingly, we conclude that Diaz 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, 123–124.)

The judgment is affirmed.

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