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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.

FRANCISCO DOMINGUEZ DAVILA,

Defendant and Appellant.

B237217

(Los Angeles County
Super. Ct. No. GA083228)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Janice C. Croft, Judge. Affirmed.

Richard B. Lennon, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

After sexually molesting his daughter in 2011, Francisco Dominguez Davila was charged by felony complaint with committing two counts of lewd act upon a child under the age of 14 years (Pen. Code, § 288, subd. (a)),¹ and one count of continuous sexual abuse of a child under the age of 14 years (§ 288.5, subd (a)). He pleaded not guilty to the charges.

Represented by appointed counsel, Davila waived his right to a preliminary hearing and entered a negotiated plea of no contest to committing a lewd act upon a child under the age of 14 years on or between March 1 and March 31, 2011, as charged in count 1. In accordance with the plea agreement, the trial court sentenced Davila to the lower state prison term of three years, and the remaining charges were dismissed on the People's motion. The court ordered Davila to pay a \$40 court security fee, a \$30 criminal conviction assessment and a \$200 restitution fine. The court imposed and suspended a parole revocation fine pursuant to section 1202.45. Davila was awarded a total of 146 days of presentence credit (127 actual days and 19 days of conduct credit).

Davila timely filed a notice of appeal in which he checked the box indicating, "This appeal is based on the sentence or other matters occurring after the plea that do not affect the validity of the plea."

We appointed counsel to represent Davila on appeal. After an examination of the record, counsel filed an opening brief in which no issues were raised. On March 19, 2012, we advised Davila he had 30 days in which to personally submit any contentions or issues he wished us to consider. No response has been received to date.

With respect to the one issue specifically identified in the notice of appeal – his sentence – because the imposition of the three-year sentence was an integral part of the plea agreement, Davila cannot challenge his sentence without also attacking the validity of the his plea. (*People v. Cuevas* (2008) 44 Cal.4th 374, 381-382; *People v. Panizzon* (1996) 13 Cal.4th 68, 78.) Thus, to the extent Davila's appeal purports to contest his

¹ Statutory references are to the Penal Code.

three-year sentence, the notice of appeal is inoperative. With respect to other potential sentencing or post-plea issues that do not in substance challenge the validity of the plea itself, we have examined the record and are satisfied Davila's attorney has fully complied with the responsibilities of counsel, 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, 112-113; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.

WOODS, J.

We concur:

PERLUSS, P. J.

ZELON, J.