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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

JAYDE M. QUARESMA,

Defendant and Appellant.

B237350

(Los Angeles County
Super. Ct. No. YA080527)

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

California Appellate Project and Larry Pizarro, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Jayde M. Quaresma appeals from the judgment entered following her plea of no contest to false imprisonment (Pen. Code, § 236)¹ and assault with a deadly weapon or force likely to produce great bodily injury (§ 245, subd. (a)(1)), during the commission of which she used a deadly and dangerous weapon, to wit, a knife (§ 12022, subd. (b)(1)), and inflicted great bodily injury (§ 12022.7, subd. (a)). The trial court sentenced Quaresma to 8 years 8 months in prison. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

*1. Facts.*²

Megan Truxton-Ferry met Quaresma on August 9 or 10, 2010. The two women met through their respective boyfriends and, during the following six months, began to develop a friendship. However, after six months, Truxton-Ferry was no longer dating the same man and she did not wish to be friendly with Quaresma. At first, Quaresma appeared to respect Truxton-Ferry's wishes, but as time went on the discussions between the two women became "heated." In an e-mail sent on February 28, 2011, Quaresma stated, " 'You're a crazy, emotional time bomb who lies to her man, Ryan, and sneaks pills behind his back.' " In another e-mail sent on the same day, Quaresma threatened to "hurt" Truxton-Ferry. To that e-mail Truxton-Ferry replied, " 'Well, do whatever you have to do.' " In yet another e-mail sent that day, Quaresma stated, " 'No more talking because I would rather show you how I feel with my fists and kicks than respond to one more of your responses[.]' " Quaresma continued, stating, " 'Seriously, I will come and find you.' "

That afternoon, Truxton-Ferry, who was becoming "more nervous than angry," e-mailed a message to Quaresma, stating, " 'Let's go, bitch. I never said anything behind your back anyway. Seriously, how immature are you? You'll beat my face in? You wish, little girl.' " Truxton-Ferry indicated that, when she sent the message, "it was [her] way of defending [herself]." She did not usually get into such altercations and she hoped

¹ All further statutory references are to the Penal Code unless otherwise indicated.

² The facts have been taken from the transcript of the preliminary hearing.

the message would convey to Quaresma that she wanted Quaresma to “stay away from [her].” Truxton-Ferry then indicated that she “obviously didn’t know the right way” to send that message. In one additional message, Truxton-Ferry stated: “ ‘It’s really attractive to act like a tough girl, at least to you. I’m not your friend; guess really never was. I got my shit right and plenty more common decency than you. I’m not going to play this game. Either do it or don’t.’ ”

Later, Truxton-Ferry began to receive text messages from Quaresma. In one message sent at approximately 6:00 o’clock in the evening, Quaresma asked Truxton-Ferry where she was. Truxton-Ferry indicated that she was at home in her house at 4545 160th Street. Although Truxton-Ferry did not invite Quaresma to come to the house, approximately one-half hour later, Quaresma was knocking on Truxton-Ferry’s kitchen door.

Truxton-Ferry opened the door just enough for her body to fill the gap between the door and the wall. When Quaresma began to talk, Truxton-Ferry assessed the situation. She listened to Quaresma’s “tone of voice and things like that.” After Quaresma asked Truxton-Ferry how she was doing, she lunged at Truxton-Ferry, pushing her into the kitchen. Quaresma threw punches and pulled at Truxton-Ferry’s hair. Quaresma told Truxton-Ferry, “ ‘You can call the cops and hopefully they’ll get to your house on time before I break your face[.]’ ” Although Truxton-Ferry then began to pull at Quaresma’s hair, Quaresma managed to get on top of Truxton-Ferry, who was by this time lying on her back on the floor. While Quaresma was attacking Truxton-Ferry, she told Truxton-Ferry that, if Truxton-Ferry told anyone about the incident, she, Quaresma “would come back and kill [Truxton-Ferry].”

Truxton-Ferry felt sharp pains in her head as Quaresma continued to hit her there, using a “stabbing motion.” Quaresma straddled Truxton-Ferry at her stomach and hit Truxton-Ferry in the head between five and fifteen times, each time saying, “ ‘If you tell anybody, I will come back and kill you for sure.’ ” Truxton-Ferry indicated that she would not tell anyone. However, after awhile, Truxton-Ferry felt that she was not going

to make it and she told Quaresma, “ ‘You’re going to kill me [now].’ ” Truxton-Ferry was genuinely “afraid that that’s what was going to happen[.]”

For some reason Quaresma stopped hitting Truxton-Ferry, got up and left the house. Truxton-Ferry locked the door, then turned around. “[A]ll [she] could see was blood everywhere[.]” Afraid to call the police because Quaresma was still outside and Truxton-Ferry did not know how Quaresma would react, Truxton-Ferry called her neighbor. Truxton-Ferry’s neighbor and her neighbor’s daughter came over to Truxton-Ferry’s house and, while they were there, Quaresma began to pound on the door and yell that she had left her keys inside. Truxton-Ferry saw Quaresma’s keys, but was terrified and did not want to open the door to give them to her. Instead, Truxton-Ferry’s neighbor or her neighbor’s daughter handed the keys to Quaresma.

Paramedics arrived and, after bandaging her head, transported Truxton-Ferry to the hospital. In addition to her head, Truxton-Ferry’s wrist “was hurting really bad.” At the hospital, it was determined that Truxton-Ferry had a fractured wrist and was required to wear a partial cast and bandage for several weeks. However, she had primarily suffered wounds to her head. Doctors were required to use approximately 30 staples and a number of stitches to close the cuts.

Jesus Valenzuela lives at 4543 160th Street. At approximately 6:00 p.m. on February 28, 2011, his daughter, J., came into the house to get him. J. was upset, so Valenzuela followed her outside. There he saw Quaresma, holding a knife in her hand as she stood behind a car parked next to the door to Truxton-Ferry’s house. When Valenzuela approached Quaresma, she ran “[d]own about a half a block to a house,” dropped the knife, came back, got into the parked car and drove off. According to Valenzuela, Quaresma “peeled out and took off.”

Jesus Valenzuela’s wife, Debbie Valenzuela, went to Truxton-Ferry’s house to see if Truxton-Ferry needed any assistance. As she walked over, Debbie Valenzuela saw Quaresma outside Truxton-Ferry’s home. When she entered the house, Debbie Valenzuela saw that Truxton-Ferry was “really bloody, severely bloody.” Debbie

Valenzuela dealt with Truxton-Ferry, called 911,³ then walked back outside. At that time, she noticed that Quaresma had a knife in her hand. As Debbie Valenzuela walked past Quaresma, Quaresma said that “she wanted [Truxton-Ferry] to give her her car keys and her sunglasses and . . . to tell her that she was sorry [she had done] this, but she never would have [done] it if [Truxton-Ferry] wouldn’t have talked shit about her boyfriend.” Debbie Valenzuela ultimately retrieved Quaresma’s car keys and gave them to her. After she had the keys, Quaresma got into her car and “burned rubber out of there.”

2. Procedural history.

Following a preliminary hearing, on August 25, 2011 Quaresma was charged with attempted, willful, deliberate, premeditated murder (§§ 664/187, subd. (a)) (count 1), first degree burglary when the person is present (§ 459) (count 2), assault with a deadly weapon or force likely to produce great bodily injury (§ 245, subd. (a)(1)) (count 3), and dissuading a witness from reporting a crime (§ 136.1, subd. (b)(1)) (count 4). It was further alleged as to counts 2, 3 and 4, that, in the commission of the offenses, Quaresma personally inflicted great bodily injury (§12022.7, subd. (a)) and that, as to counts 1, 2 and 4, Quaresma personally used a deadly and dangerous weapon, to wit, a knife, “said use not being an element of the . . . offense[s]” (§ 12022, subd. (b)(1)).

At proceedings held on September 28, 2011, the trial court added, on the People’s motion, false imprisonment as count 5 (§ 236). Quaresma’s counsel then indicated that the People had made an offer of 8 years 8 months in prison and that Quaresma wished to accept it. The plea was going to be to count 3, assault with a deadly weapon, “plus three years for the [great bodily injury] allegation, plus one year for the knife, for eight years and then one-third the midterm on count 5, the [false imprisonment].”

Before the “victim impact statement” was made, Quaresma indicated that she wished to apologize for her actions. Quaresma stated: “Okay. I’m sorry. I’m sorry. I didn’t know you were that hurt. I really didn’t know you were that hurt. I didn’t even

³ When Debbie Valenzuela called 911, the operator told her to “go ahead and let [Quaresma] go, because they already knew who she was[.]”

know you were bleeding, but the fact is I got hurt and I hurt you, so I know that I have to be punished for my actions. I have to deal with the consequences. I'm sorry I hurt you and you got hurt. And I wish things could have been differently. [¶] I hope you forgive me. I'm sorry, but I know this is—it was my actions that are—that brought me here obviously, but I know that the Bible says that the Lord punishes his children like our human fathers punish their children so that we can learn from our mistakes and to change and I never want—I definitely learned from this and I never want to hurt anybody and I'm sorry I hurt you.”

Truxton-Ferry indicated that she forgave Quaresma and stated that “because of everything that’s happened, . . . [her] life has changed forever, too.” Truxton-Ferry continued: “And, you know, I didn’t go through all the different ways it’s changed me, but the point is that I don’t hate you at all. I don’t. And I really do care for you so much and that’s why I hope you know we can all get through this.” “I guess there’s a lot I wanted to say, but that’s really all it really is, is that I do forgive you and I do love you, Jayde. I do. And I’m so sorry that things ended up the way they did. [¶] . . . I just hope we can all get through this and learn from everything that we need to learn from. So I’m sorry, too.”

The prosecutor addressed Quaresma, informing her that, in count 3 of the information, she had been charged with assault with a deadly weapon or force likely to cause great bodily injury and that it had been further alleged “that a deadly weapon was used, to wit, a knife.” It had also been charged that, during the commission of the offense, Quaresma had inflicted great bodily injury upon Truxton-Ferry within the meaning of section 12022.7. In the same information, in count 5, Quaresma had been charged with “a violation of . . . section 236, false imprisonment.” The prosecutor informed Quaresma that, pursuant to the plea agreement, she would be sentenced to 8 years 8 months in state prison. Further, with regard to count 3, the offense “is a strike within the meaning of the California Three-Strikes law[.] In other words, if [she were to be] later arrested and convicted [of] another felony, this conviction [would] result in the doubling of any future sentence.”

The prosecutor then explained to Quaresma that, by entering a plea, she would be giving up her right to a jury or court trial, her right to confront the witnesses against her, the right to “present a defense on [her] own behalf including testifying and bringing witnesses to court at no cost to [her,]” and the right to remain silent. Quaresma indicated that she understood and was willing to waive her rights and that, in addition, she understood that she would be on parole for a period of up to three years and would be required to pay restitution and other fines.

After knowingly and intentionally waiving her rights, Quaresma pleaded no contest to section 245, subdivision (a)(1), assault with a deadly weapon or force likely to produce great bodily injury, during which she used a deadly or dangerous weapon, a knife, and inflicted great bodily injury upon Truxton-Ferry. Quaresma then acknowledged that the offense amounted to a “serious or violent felony” within the meaning of sections 667.5, subdivision (c) and 1192.7, subdivision (c) for purposes of the Three Strikes law. With regard to the charge alleged in count 5, false imprisonment in violation of section 236, Quaresma again pleaded no contest.

The trial court found that Quaresma had “expressly, knowingly, understandingly, and intelligently waived [her] constitutional rights” and “freely and voluntarily” entered her pleas. Accordingly, the trial court “accept[ed Quaresma’s] plea[s] to counts 3 and 5.” The court also found that she had freely admitted the great bodily injury and “the knife” allegations.

The trial court sentenced Quaresma to the upper-term of four years for her conviction of assault with a deadly weapon or force likely to produce great bodily injury. With regard to her admission that she used a deadly and dangerous weapon during the assault, a knife, the trial court imposed an additional year. For her admission that she inflicted great bodily injury during the offense, the trial court imposed a term of three years. Finally, for her admission that she committed false imprisonment, the trial court imposed one third the mid-term, or eight months. In total, the trial court sentenced Quaresma to the agreed upon term of 8 years 8 months in prison.

Quaresma was given presentence custody credit for 202 days actually served and 15 percent, or 30 days, of good time/work time, for a total of 232 days. The court then imposed an \$80 security assessment (§ 1465.8, subd. (a)(1)), a \$60 criminal conviction assessment (Gov. Code, § 70373), a \$200 restitution fine (§ 1202.4, subd. (b)), a stayed \$200 parole revocation restitution fine (§ 1202.45) and \$135 in restitution to the victim, Truxton-Ferry (§ 1202.4, subd. (f)).

As requested by letters submitted in support of Quaresma, the trial court recommended that she be housed at the Chino Institute for Women, a facility in Southern California. The remaining counts—1, 2 and 4—were dismissed by the trial court “due to plea negotiation[s].”

On November 17, 2011, Quaresma filed a timely notice of appeal. The notice indicated that the appeal was “based on the sentence or other matters occurring after the plea that [did] not affect the validity of the plea. (Cal. Rules of Court, rule 8.304(b).)”

CONTENTIONS

After examination of the record, counsel filed an opening brief which raised no issues and requested this court to conduct an independent review of the record.

By notice filed February 23, 2012, the clerk of this court advised Quaresma to submit within 30 days any contentions, grounds of appeal or arguments she wished this court to consider. No response has been received to date.

REVIEW ON APPEAL

We have examined the entire record and are satisfied counsel has complied fully with counsel’s responsibilities. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-284; *People v. Wende* (1979) 25 Cal.3d 436, 443.)

DISPOSITION

The judgment is affirmed.

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KLEIN, P. J.

We concur:

KITCHING, J.

ALDRICH, J.