Filed 4/2/14 P. v. Rosales CA2/2

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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. DAMARIUS TERESA ROSALES, Defendant and Appellant.	B251617 (Los Angeles County Super. Ct. No. BA387117)

THE COURT:*

Defendant and appellant Damarius Teresa Rosales (defendant) appeals from a judgment of conviction of second degree murder. Her appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues. On January 15, 2014, we notified defendant of her counsel's brief and gave her leave to file, within 30 days, her own brief or letter stating any grounds or argument she might wish to have considered. That time has elapsed, and defendant has submitted no brief or letter. We have reviewed the entire record, and finding no arguable issues, affirm the judgment.

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* BOREN, P. J ., CHAVEZ, 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.

An amended information charged defendant and codefendant Jose Francisco Partida (Partida) in count 1 with the murder of Plutarco Soriano in violation of Penal Code section 187, subdivision (a),[1] and alleged robbery and burglary as special circumstances, pursuant to section 190.2, subdivision (a)(17). The amended information further alleged that a principal was armed with a firearm during the commission of the offense, within the meaning of section 12022, subdivision (a). Count 2 charged defendant and Partida with the attempted willful, premeditated and deliberate murder of Carlos Delgado in violation of sections 187 and 664, also alleging that a principal was armed with a firearm.

Shortly before trial defendant entered into a plea agreement where she agreed to plead no contest to count 1, second degree murder, in exchange for the dismissal of count 2 and the special allegations. Defendant's sentence would be 15 years to life in prison, plus restitution as ordered by the court. The prosecutor and the court explained to defendant her constitutional and statutory rights, and the consequences of her plea. Defendant stated she understood, and also understood that she would be ordered to pay restitution and other fines and fees. Defendant entered her plea of no contest to which her counsel joined. Counsel also stipulated to a factual basis for the plea as shown in the police and probation reports.

On September 12, 2013, the trial court sentenced defendant to an indeterminate term of 15 years to life in prison, and imposed a $200 restitution fine, a $200 parole revocation fine (stayed), a $30 criminal conviction assessment, and a $40 court security fee. The trial court ordered defendant to provide a DNA sample and fingerprints, and awarded 779 actual days of presentence custody credit, with no conduct credit. Defendant waived her right to be personally present at any restitution hearing. Defendant filed a timely notice of appeal from the judgment, as well as an amended notice of appeal clarifying that she challenged only the sentence or other matters occurring after entry of her plea, which would not affect the validity of the plea.

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

We have examined the entire record and are satisfied that defendant's appellate counsel has fully complied with his responsibilities and that no arguable issue exists. We conclude 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 her 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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