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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.

JAMES DUFF,

Defendant and Appellant.

B275521

(Los Angeles County
Super. Ct. No. PA082297)

THE COURT:*

Appellant James Duff was charged with the following eight counts:
Torture (Pen. Code, § 206,¹ count 2); mayhem (§ 203, count 4), spousal rape,
(§ 262, subd. (a)(1)), count 5); spousal rape (§ 262, subd. (a)(1), count 6);

* ASHMANN-GERST, Acting P.J., HOFFSTADT, J., GOODMAN, J.†

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

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

forcible oral copulation (§ 288a, subd. (c)(2)(A), count 7); corporal injury to a spouse with priors (§ 273.5, subd. (f)(1), count 8); corporal injury to a spouse with a prior (§ 273.5, subd. (f)(1), count 9); and child cruelty (§ 273a, subd. (b), count 10). It was alleged as to counts 5 through 8 that appellant personally inflicted great bodily injury (§ 12022.7, subd. (a)). Appellant pled no contest to the following two counts: Spousal rape, (§ 262, subd. (a)(1)), count 5), and corporal injury to a spouse with priors (§ 273.5, subd. (f)(1), count 8), and admitted the great bodily injury enhancement (§ 12022.7, subd. (e)) in count 8, in exchange for an agreed upon sentence of 18 years. The remaining counts were dismissed.

Appellant filed a notice of appeal and requested a certificate of probable cause. His statement in support of the request challenged the length of his sentence and took issue with his attorney for not using the results of a psychiatric test or looking into medication he has been taking in jail. The request was denied by the trial court. Accordingly, the appeal can only lie as to the sentence and other matters occurring after the plea that will not affect the validity of the plea. (§§ 1237, 1237.5; Cal. Rules of Court, rule 8.304(b)(4); *People v. Lloyd* (1998) 17 Cal.4th 658, 665; *People v. Buttram* (2003) 30 Cal.4th 773, 790; *People v. Shelton* (2006) 37 Cal.4th 759, 770–771.)

We appointed counsel for appellant on appeal. After examination of the record, counsel filed an “Opening Brief” in which no arguable issues were raised. On October 11, 2016, we advised appellant that he had 30 days within which to personally submit any contentions or issues that he wished us to consider. Appellant did not submit a letter response. However, appellant filed a letter with his notice of appeal, in which he again took issue with the length of his sentence and presented his version of the facts.

Because appellant is challenging the validity of his plea in the absence of a certificate of probable cause, his appeal cannot lie. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.

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