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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.

CARRIE TSUNG HUI WU,

Defendant and Appellant.

B280962

(Los Angeles County  
Super. Ct. No. BA395341)

APPEAL from a judgment of the Superior Court of  
Los Angeles County, Clifford L. Klein and Mildred Escobedo,  
Judges. Affirmed.

Renee Rich, under appointment by the Court of Appeal, for  
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Carrie Tsung Hui Wu was employed as a sales representative for NNW Import Incorporated, which sold women's clothing imported from China to clothing stores in the United States. In December 2010 Wu negotiated a contract on behalf of NNW Import with Forever 21 for the purchase of approximately \$120,000 in imported women's clothing. In March 2011 Wu caused Forever 21's partial payment of \$67,832 for the clothing to be diverted to her personal bank account.

Wu was arrested and charged in an information with grand theft by embezzlement (Pen. Code, § 487, subd. (a)). Represented by the public defender's office, Wu entered a plea of not guilty on January 3, 2013. On April 17, 2013 Wu appeared with retained counsel, and the public defender's office was relieved as counsel of record.

On June 11, 2013 the court relieved retained counsel at Wu's request. Wu informed the trial court she would either retain new counsel or seek to have the public defender's office reappointed at the next hearing. On July 19, 2013 the court reappointed the public defender's office to represent Wu. On August 20, 2013 Wu's motion to replace appointed counsel pursuant to *People v. Marsden* (1970) 2 Cal.3d 118 was heard and denied.

After waiving her right to a jury trial on October 22, 2013, Wu entered a negotiated plea of no contest to grand theft by embezzlement. The minute order from the plea hearing<sup>1</sup> states Wu was advised of, and waived, her constitutional rights and was advised of, and acknowledged she understood, the consequences

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<sup>1</sup> The record contains an affidavit by the court reporter stating her computer disc for the October 22, 2013 plea hearing was corrupted and her notes were destroyed.

of her plea. Counsel stipulated to a factual basis for the plea. The trial court found Wu had knowingly, voluntarily and intelligently waived her constitutional rights and entered her no contest plea.

Wu's plea agreement called for her to be sentenced to the low term of 16 months in state prison. However, if she paid full restitution of \$67,832, she would be placed on three years of formal probation on condition she complete 400 hours of light duty community service. Wu waived time for sentencing and was released on her own recognizance.<sup>2</sup> The case was continued for her to bring \$35,000 to court as a partial restitution payment on the next court date.

On November 18, 2013 Wu appeared in court with \$4,000 in restitution, which was given to NNW Import. Wu's counsel informed the court that Wu would have an additional payment of \$31,000 by the end of December 2013.

After two continuances at defendant's request, Wu appeared in court on March 17, 2014, but left before her case was called. A bench warrant was issued.

On December 13, 2016 Wu appeared in custody, and the bench warrant was recalled. The court imposed a sentence of 16 months in state prison and ordered Wu to pay the remaining balance of restitution, as well as statutory fines, fees and assessments. Wu was awarded 122 days of presentence custody credits.

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<sup>2</sup> The plea agreement included a "*Cruz* waiver," pursuant to *People v. Cruz* (1988) 44 Cal.3d 1247, 1254, footnote 5, by which Wu agreed that, if she failed to appear at the continued sentencing hearing, the court could sentence her to up to three years in state prison.

Wu filed a timely notice of appeal in which she checked the preprinted 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.” Wu did not seek a certificate of probable cause.

### DISCUSSION

We appointed counsel to represent Wu on appeal. After examination of the record, counsel filed an opening brief in which no issues were raised. On January 5, 2018 we advised Wu she had 30 days within which to submit any contentions or issues she wished us to consider.<sup>3</sup> We have received no response.

We have examined the record with respect to potential sentencing or post-plea issues that do not in substance challenge the validity of the plea itself and are satisfied Wu’s appellate 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, 118-119, *People v. Wende* (1979) 25 Cal.3d 436, 441-442.)

### DISPOSITION

The judgment is affirmed.

PERLUSS, P. J.

We concur:

ZELON, J.

SEGAL, J.

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<sup>3</sup> A notice was initially sent to Wu on December 19, 2017 but was returned by the Los Angeles County Jail with a note, “not deliverable as addressed, unable to forward.” We re-sent the notice on January 5, 2018 to the county jail; it was not returned.