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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

TIFFANY LANE ELLIS,

Defendant and Appellant.

B281988

(Los Angeles County  
Super. Ct. No. BA434648)

APPEAL from an order of the Superior Court of Los Angeles County, Karla D. Kerlin, Judge. Affirmed.

Alex Green, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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On July 21, 2016, defendant and appellant Tiffany Lane Ellis entered a plea of no contest to child stealing, in violation of Penal Code section 278. Imposition of sentence was suspended. Defendant was placed on probation for a period of five years, with the understanding that the conviction would be reduced to a misdemeanor if she was in full compliance with the conditions of probation after three years. The probation conditions included participation in a one-year outpatient mental health treatment program.

Defendant filed a motion for dismissal on March 2, 2017. She argued that child stealing is an alternate felony/misdemeanor under Penal Code section 17, subdivision (b). According to defendant's motion, her offense became a misdemeanor as a matter of law when the court imposed a probationary sentence.

The trial court held a hearing on March 16, 2017. The court denied the motion, pointing out that child stealing is an alternate felony/misdemeanor. The court advised defendant that she had not enrolled in, or completed, the required one-year mental health program. The court assured defendant she could renew the motion to reduce the offense to a misdemeanor in the future if she was in compliance with probation.

Defendant filed a timely notice of appeal from the order denying her motion. This court appointed counsel to represent defendant on appeal. On July 25, 2017, appointed counsel filed a brief raising no issues, but requested this court to independently review the record for arguable errors

under *People v. Wende* (1979) 25 Cal.3d 436. Defendant was advised by letter of her right to file a supplemental brief within 30 days. No brief has been received from defendant.

We have completed our independent review and are satisfied no arguable appellate contentions exist. Defendant was advised of the offer to settle the case, which she accepted after waiving her constitutional rights and entering a plea of no contest. The proposed case settlement, which the trial court followed, unambiguously required defendant to complete a one-year mental health program. Defendant was promised that the offense would be reduced to a misdemeanor if she was in full compliance with the conditions of probation after three years. At the time of the hearing on the motion, defendant was not in compliance with the conditions of probation, nor had she been on probation for three years. The trial court did not abuse its discretion in denying defendant's motion to dismiss.

The order is affirmed. (*Smith v. Robbins* (2000) 528 U.S. 259.)

KRIEGLER, Acting P.J.

We concur:

BAKER, J.

DUNNING, J.\*

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\* Judge of the Orange Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.