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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

ABDONIS CANALES,

Defendant and Appellant.

A135462

(San Mateo County Super. Ct.  
No. SC074353A)

Defendant Abdonis Canales appeals from his conviction and judgment, following a negotiated plea of no contest to one count of violating Penal Code section 288, subdivision (a).<sup>1</sup> His appellate counsel filed an opening brief that raises no issues and asks this court for an independent review pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Defendant was notified of his right to file a supplemental brief and submitted a letter filed July 30, 2012, in Spanish, which has been translated. After independent review, we conclude there are no arguable issues to brief and affirm the judgment.

**BACKGROUND**

In August 2011, defendant's girlfriend contacted police regarding defendant and her 12-year-old daughter. During a subsequent interview, the 12-year old disclosed to officers that defendant had sexually molested her on two occasions during the previous month. An information filed September 28, 2011, charged defendant with two felony

<sup>1</sup> Further statutory references are to the Penal Code.

violations of section 288, subdivision (a) (lewd or lascivious act upon child under 14 years of age). Each count was alleged to be a “serious” and “violent” felony under sections 1192.7, subdivision (c)(6), and 667.5, subdivision (c)(6). The information also alleged defendant had several prior felony convictions for purposes of Penal Code sections 1203, subdivision (e)(4) (denial of probation), 1170.12, subdivision (c)(1) (doubled sentence), and 667.5, subdivision (b) (enhancement for prior prison terms). Defendant, on September 30, pleaded not guilty to the charges and denied the enhancement allegations.

In response to the People’s offer of a negotiated disposition, on February 29, 2012, defendant, with the assistance of counsel and an interpreter, agreed to plead no contest to the second count of violating section 288, subdivision (a), admit the allegations that this violation constituted a serious and violent felony, and admit a “strike” prior conviction for purposes of section 1170.12, subdivision (c)(1). The court reviewed the change of plea form signed by defendant, and made certain on the record that defendant understood his rights and the consequences of his plea, including the range of possible sentence, registration as a sex offender, and possibility of deportation. With the assistance of an interpreter, defendant personally responded to the court’s questions about defendant’s understanding of the plea bargain. The court found defendant made a voluntary, knowing, and intelligent waiver of his rights, and accepted defendant’s stipulation to a factual basis for the plea, before accepting the change of plea to no contest. It then granted the prosecutor’s motion to dismiss the balance of the information.

At the sentencing hearing on March 28, 2012, the trial court denied probation and imposed the stipulated sentence of six years in state prison—that is, the lower term of three years for the violation of section 288, subdivision (a), doubled to six years pursuant to section 1170.12, subdivision (c)(1).

#### **DISCUSSION**

We reviewed the entire record. By pleading no contest defendant admitted the sufficiency of the evidence establishing the crime and is not entitled to review of any issue that concerns the question of guilt. (*People v. Hunter* (2002) 100 Cal.App.4th 37,

42.) Section 1237.5 and California Rules of Court, rule 8.304(b) bar appeals under the circumstances of the plea in this case unless defendant received a certificate of probable cause. Defendant's request for certificate of probable cause in Spanish complains about ineffective assistance of counsel and being pressured into the plea. The record does not support this contention. Defendant did not receive and file an order granting a certificate.

There was no error in the proceedings or in the sentence imposed. The court exercised its discretion in a proper manner, correctly awarded credits, and imposed required restitution fines.

Defendant's letter brief, filed July 30, 2012, complains that his lawyer's threat of a 27-year sentence caused him to plead guilty, and he later wanted to change his plea. This is not borne out by the transcripts of the proceedings.

The judgment is affirmed.

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Marchiano, P.J.

We concur:

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Margulies, J.

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Banke, J.