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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL JORDACHE HOPKINS,

Defendant and Appellant.

A135886

(Alameda County
Super. Ct. No. 161333C)

Michael Jordache Hopkins appeals from a judgment upon his plea of no contest to oral copulation (Pen. Code,¹ § 288a, subd. (a)(c)(2)), and rape (§ 264.1). His counsel raises no issues and asks this court for an independent review of the record to determine whether there are any arguable issues. (*People v. Wende* (1979) 25 Cal.3d 436.)

Defendant was apprised of his right to file a supplemental brief. On October 9, 2012, defendant filed a letter requesting that new counsel be appointed, contending that he did not understand the plea deal and received ineffective assistance of trial counsel.

On December 7, 2010, an amended information was filed charging defendant and a codefendant with seven felony counts including human trafficking² (§ 263.1, subd. (a)); second degree robbery (§ 211); two counts of oral copulation by acting in concert with force (§ 288a, subd. (d)); two counts of forcible rape while acting in concert (§ 264.1); and possession of ammunition (§ 12316, subd. (b)(1) (repealed by Stats.2010, Ch. 711, § 4, now § 30305, subd. (a)(1).) The amended information further charged numerous

¹ All further statutory references are to the Penal Code.

² A third co-defendant was charged with human trafficking.

serious felony allegations and sentencing enhancements. The charges stemmed from defendant's involvement in the kidnapping and commission of forcible sexual offenses upon a female victim over the course of two days in April 2009.

In June 2010, the court suspended criminal proceedings pursuant to section 1368. The court thereafter ordered several evaluations of defendant to determine his competency to stand trial. On October 8, 2010, after reviewing the reports prepared by the evaluators, the court determined that defendant was a mentally incompetent person within the meaning of section 1368 and ordered that he be referred for placement under section 1370. On May 6, 2011, upon review of Alameda County's Conditional Release Program's placement recommendation, the court ordered that defendant be committed to the Napa State Hospital.

On November 4, 2011, the court, upon review of a report and certification of mental competency pursuant to section 1372, reinstated criminal proceedings.

On April 4, 2012, defendant pled no contest to oral copulation and rape. The plea was entered with the understanding that defendant would be sentenced to a term of fifteen years in state prison.

On June 8, 2012, the date set for sentencing, defendant moved to substitute counsel pursuant to *People v. Marsden* (1970) 2 Cal.3d 118. The court continued the matter for one week in order to allow defendant time to prepare the motion. On June 15, 2012, the court conducted a *Marsden* hearing in which defendant also requested to represent himself pursuant to *Faretta v. California* (1975) 422 U.S. 806, 833-834. Following an in camera hearing, the court properly denied the motions. The court thereafter sentenced defendant to the aggravated term of nine years on the rape offense and imposed a consecutive midterm of six years on the oral copulation offense for a total term of 15 years in state prison. The court awarded defendant 1,313 days of custody credit.

Defendant was represented by counsel and received effective assistance. He is not entitled to the appointment of new counsel or to withdrawal of his plea. This court has reviewed the entire record and there are no meritorious issues to be argued.

The judgment is affirmed.

RIVERA, J.

We concur:

REARDON, ACTING P.J.

BASKIN, J.*

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