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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

MARY A. HEINRICHER,

Defendant and Appellant.

A136442

(Napa County
Super. Ct. No. CR153575)

I. INTRODUCTION

After pleading guilty to one count of involuntary manslaughter (Pen. Code, § 192, subd. (b))¹ and one count of elder abuse (§ 368, subd. (b)(1)), appellant was sentenced to three years in state prison. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, she has appealed and requests this court to examine the record of her conviction and determine if there are any issues deserving of further briefing. We have done so, find none, and hence affirm the conviction and the sentence imposed.

II. FACTUAL AND PROCEDURAL BACKGROUND

Appellant and her husband, Tony Heinricher, lived on Ashlar Drive in Napa. Living with them since about 2006 or 2007 was her husband’s mother, 92-year old Marilyn Sue Heinricher who, per her son, was suffering from dementia. Sometime in the early morning of December 22, 2009, appellant’s mother-in-law was apparently walking outside the house and fell on some landscaping rocks in the front yard. This fall resulted

¹ All further statutory references are to the Penal Code.

in a “probable compound fracture of her left ankle, with bone exposed, and some suspicious bruising on her upper torso and arms.” But neither appellant nor her husband called an ambulance or brought her to a hospital until a couple of weeks later, i.e., on January 4, 2010. There she was diagnosed as having an open fracture of her left ankle, a fracture and dislocation of her right shoulder, sepsis (i.e., blood poisoning) probably caused by the open fracture, acute renal failure, hyperkalemia, acute blood-loss anemia, and lactic acidosis. A nurse at the hospital, Queen of the Valley Hospital in Napa, contacted the police regarding “suspected elder abuse” of the mother-in-law. The police came to the hospital, where they were advised by the victim’s son (later also a defendant in the criminal prosecution) about the date of the injuries and the victim’s dementia. One of the officers was also advised by the attending physician that “the ankle fracture likely lead [sic] to infection and the resulting Sepsis, which in turn affected several of the body’s organs, including the kidneys, causing kidney failure.” On the morning of January 6, 2010, the hospital determined that the mother-in-law’s health was “declining” and, per her son’s request, she was placed on a “Do Not Resuscitate” directive. According to the record before us, she apparently died on January 22, 2010.

On September 16, 2010, the Napa County District Attorney charged that, on or about January 22, 2010, appellant and her husband committed second degree murder and that, about or between December 22, 2009, and January 4, 2010, they committed the offense of elder abuse which was the proximate cause of the victim’s death. (§§ 187, subd. (a); 368, subd. (b)(1) and (3).)

Well over a year later, i.e., on February 6, 2012, appellant joined in a section 995 motion filed by her co-defendant husband to dismiss the indictment. However, on March 23, 2012, appellant withdrew that motion and, instead, pled guilty to involuntary manslaughter, a lesser-included offense to that charged in the indictment (§ 192, subd. (b)), and to elder abuse without the death enhancement (§ 368, subd. (b)(1)) in exchange for an indicated sentence of three years. The trial court found a factual basis for the plea as set forth in the grand jury transcripts and the police reports, and made the findings set forth on the plea form.

On June 27, 2012, the trial court sentenced appellant to three years in prison, i.e., the midterm of three years for elder abuse and the midterm of three years for involuntary manslaughter; the latter sentence was stayed pursuant to section 654. Appellant was awarded custody and conduct credits totaling 1108 days, so she had already served the three year sentence plus 13 days. Those days were credited against various fees and fines also imposed by the court pursuant to section 2900.5.

Appellant filed a timely notice of appeal on August 27, 2012.²

III. DISCUSSION

We have reviewed the record on appeal and find no issues deserving of further briefing. As just noted, appellant has already served more than the three-year sentence imposed by the court following her guilty plea to the reduced charges. And that plea was clearly justified bearing in mind (1) the admitted several-week inaction by appellant and her husband regarding the injuries to her mother-in-law and (2) the many severe injuries with which appellant's mother-in-law was diagnosed when she was received at the hospital on January 4, 2010, and (3) the sepsis she apparently derived from those injuries per the hospital's medical report.

² Misstated in appellant's *Wende* brief as "April 23, 2012."

IV. DISPOSITION

The judgment appealed from, and the sentence imposed on defendant, are affirmed.

Haerle, J.

We concur:

Kline, P.J.

Richman, J.