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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.

RENATA M. KING,

Defendant and Appellant.

B245811

(Los Angeles County
Super. Ct. No. BA390617)

APPEAL from a judgment of the Superior Court of Los Angeles County, Laura F. Priver, Judge. Affirmed.

Kevin D. Sheehy, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Respondent.

INTRODUCTION

Defendant and appellant Renata Marquez King appeals from a judgment following her no contest plea to possession for sale of a controlled substance (cocaine base) and cruelty to a child by endangering health.¹ On appeal, defendant's appointed counsel filed an opening brief in accordance with *People v. Wende* (1979) 25 Cal.3d 436 requesting this court to conduct an independent review of the record to determine if there are any arguable issues. On April 10, 2013, we gave notice to defendant that counsel had failed to find any arguable issues and that defendant had 30 days within which to submit by brief or letter any grounds of appeal, contentions, or arguments she wished this court to consider. Defendant did not file a responsive brief or letter. We affirm.

PROCEDURAL BACKGROUND

In an amended information, the District Attorney of Los Angeles County charged defendant with sale/transportation/offer to sell a controlled substance (heroin) (Health & Saf. Code, § 11352, subd. (a)) (count 1), possession for sale of a controlled substance (cocaine base) (Health & Saf. Code, § 11351) (count 2), cruelty to a child by endangering health (Pen. Code, § 273a, subd. (b)) (count 4), and possession of a controlled substance (methamphetamine) (Health & Saf. Code, § 11377, subd. (a)) (count 6). As to counts 1 and 2, the District Attorney further alleged that defendant previously had been convicted of a violation of Health and Safety Code section 11351.5. (Health & Saf. Code, §§ 11370, subds. (a) and (c), 11370.2, subd. (a); Pen. Code, §§ 1203, subd. (e)(4) and 1203.07, subd. (a)(11).) Defendant pleaded not guilty and denied the special allegations.

On October 1, 2012, defendant was informed of the nature of the charges against her and the consequences of a guilty or no contest plea. She was advised of and waived her constitutional rights against self-incrimination and to trial by court and jury, to

¹ Defendant did not obtain a certificate of probable cause. (Pen. Code, § 1237.5.) Accordingly, defendant's appeal is limited to "[g]rounds that arose after entry of the plea and do not affect the plea's validity." (Cal. Rules of Court, rule 8.304(b)(1) & (4); *People v. Mendez* (1999) 19 Cal.4th 1084, 1099.)

confront and cross-examine witnesses, and to subpoena witnesses to testify in her defense. Pursuant to a plea agreement, defendant withdrew her not guilty plea and entered a plea of no contest, pursuant to *People v. West* (1970) 3 Cal.3d 595, to possession for sale of a controlled substance (cocaine base) (count 2) and cruelty to a child by endangering health (count 4) in exchange for a state prison term of four years. Defendant admitted the allegations under and Health and Safety Code section 11370.2, subdivision (a).² Subsequently, defendant was permitted to withdraw her admission to those allegations, and those allegations and counts 1 and 6 were dismissed. The trial court sentenced defendant to a term of four years in state prison on count 2 and to a concurrent 6-month term in any penal institution on count 4.

FACTUAL BACKGROUND³

On November 2, 2011, Los Angeles Police Department officers were conducting a surveillance of the area of First and Beach Streets in the City of Los Angeles. A detective observed defendant, in an SUV with her 10-year-old son, conduct a “hand-to-hand” transaction with Jesus Huerta. Huerta handed defendant cash and defendant handed Huerta multicolored, toy balloons which are commonly used to package heroin. The police detained Huerta and recovered 11 balloons containing 2.06 grams of heroin. After the transaction with Huerta, defendant drove to another location where she completed a second hand-to-hand transaction with an unknown male Hispanic. The male received an item from defendant that he placed in his mouth. According to a police

² The sentencing minute order states that defendant admitted an allegation pursuant to Penal Code section 667.5, subdivision (b). The amended information does not contain allegations under Penal Code section 667.5, subdivision (b). In any event, the trial court later allowed defendant to withdraw her admission, and the allegation was dismissed on the People’s motion.

³ Because defendant pleaded no contest, our brief recitation of the factual background is taken from the preliminary hearing.

officer, narcotics buyers commonly conceal narcotics in their mouths. The officer also testified that drug transactions are potentially dangerous as they “can go bad at any time.”

Defendant was followed to her residence where a police officer detained her. Defendant gave her consent to the police to search her residence. The police found marijuana and methamphetamine in defendant’s closet.

No evidence was adduced at the preliminary hearing that the police recovered cocaine base—the controlled substance defendant pleaded guilty to possessing for sale—from the search of defendant’s home or otherwise. Because, as noted in footnote 1 above, defendant did not obtain a certificate of probable cause (Pen. Code, § 1237.5) and her direct appeal is thus limited to grounds that arose after the entry of her no contest plea and not to grounds that affect the plea’s validity (Cal. Rules of Court, rule 8.304(b)(1) & (4); *People v. Mendez, supra*, 19 Cal.4th at p. 1099), we do not address below whether the record demonstrates a factual basis for the plea in the absence of evidence that the police recovered cocaine base.

DISCUSSION

We appointed counsel to represent defendant in this appeal. After examining the record, counsel filed an opening brief asking this court to independently review the record in accordance with *People v. Wende, supra*, 25 Cal.3d 436. On April 10, 2013, we gave notice to defendant that counsel had failed to find any arguable issues and that defendant had 30 days within which to submit by brief or letter any grounds of appeal, contentions, or arguments she wished this court to consider. Defendant did not submit a brief or letter. We have examined the entire record and are satisfied that defendant’s counsel has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

DISPOSITION

The judgment is affirmed.

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MOSK, J.

We concur:

TURNER, P. J.

KUMAR, J.