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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

ALFONSO FIERROS,

Defendant and Appellant.

2d Crim. No. B246737
(Super. Ct. No. F464362)
(San Luis Obispo County)

Alfonso Fierros and two codefendants were charged with burglary (Pen. Code, § 459),¹ robbery (§§ 211, 213), and murder (§ 187, subd. (a)), with special circumstances of murder committed during an enumerated felony (§ 190.2, subd. (a)(17)) and with use of a deadly weapon (§ 12022, subd. (b)(1)). Appellant waived his trial rights and pled no contest to first degree murder.

Prior to sentencing, appellant moved to withdraw his plea. His request to replace appointed counsel was granted and new counsel filed a motion to withdraw the plea on the grounds that appellant was innocent of first degree murder, and pled only to protect someone else. The prosecution opposed the motion. Appellant testified at the hearing on the plea withdrawal motion. The trial court denied the motion.

¹ All statutory references are to the Penal Code.

The trial court sentenced appellant to state prison for an indeterminate term of 25 years to life. The court also imposed restitution and other fines and fees, and awarded a total of 434 days of presentence credit. Appellant filed a timely handwritten notice of appeal, but did not request a certificate of probable cause.

We appointed counsel to represent appellant in this appeal. After examining the record, counsel filed an opening brief raising no issues and requesting that we independently examine the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

We advised appellant in writing that he had 30 days within which to personally submit any contentions or issues he wished to raise on appeal. Appellant's counsel subsequently filed an English translation of appellant's supplemental letter brief, in which he discusses the same issues raised in his plea withdrawal motion. Specifically, appellant contends that he is innocent of murder and that he lied to police to protect his codefendants.

Because appellant pleaded no contest, we obtain the facts from the preliminary hearing transcript. Prior to the murder, Melissa Fandel and the victim, Robert Uyeno, shared drugs in a motel room. When Uyeno left to go to work, he locked Fandel in the room. Fandel related this incident to Jennifer Velten, who was with appellant in another motel room. Fandel said she was upset that Velten did not help her when she was yelling for help while locked in Uyeno's room.

Fandel refused to tell appellant what had happened with Uyeno, but she later overheard Velten tell appellant about the incident. The next day, appellant approached Fandel and asked if it was true that Uyeno tied up and raped women. Fandel said it was not true and wanted to know why he was asking. Appellant told her that Uyeno was dead. After he left, Fandel asked some friends to check on Uyeno. They found him dead.

Velten told the police that after Fandel said that Uyeno had locked her in the room, Velten, appellant and another woman, Tabatha Brown, went to Uyeno's motel. Velten spent 45 minutes alone with Uyeno before appellant and another man, John

Barrett, came in and assaulted Uyeno. The three of them then left, taking some of Uyeno's property with them.

Appellant told police a similar story, saying that he, Barrett and Brown became very angry when they heard that Uyeno was locking girls in his room, raping them and molesting children. Appellant admitted that he and Barrett had beaten, choked, stabbed and then killed Uyeno by slitting his throat.

A criminal defendant who appeals following a plea of no contest or guilty without a certificate of probable cause can only challenge the denial of a motion to suppress evidence or raise grounds arising after the entry of the plea that do not affect the plea's validity. (Cal. Rules of Court, rule 8.304(b)(1); see *People v. Panizzon* (1996) 13 Cal.4th 68, 74-76.) Appellant's appeal neither challenges a suppression motion, nor cites grounds challenging the events after the plea. Because appellant pled no contest and failed to apply for a certificate of probable cause, his appeal must be dismissed.

We have examined the record and are satisfied that appellant's attorney has fully complied with the responsibilities of counsel and that no arguable issue exists. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

The appeal is dismissed.

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PERREN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

John A. Trice, Judge

Superior Court County of San Luis Obispo

California Appellate Project, Jonathan B. Steiner, Executive Director,
Richard B. Lennon, Staff Attorney, under appointment by the Court of Appeal; Alfonso
Fierros, in pro. per., for Defendant and Appellant.

No appearance for Plaintiff and Respondent.