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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Shasta)**

THE PEOPLE,

Plaintiff and Respondent,

v.

COLTON JAMES ROOD,

Defendant and Appellant.

C071357

(Super. Ct. No. 11F5641)

Defendant Colton James Rood pleaded no contest to lewd and lascivious conduct on a child under the age of 14 years old (Pen. Code, § 288, subd. (a)).¹ Pursuant to the plea agreement, the court sentenced defendant to a term of eight years in state prison.

Defendant's ensuing appeal is subject to the principles of *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *People v. Kelly* (2006) 40 Cal.4th 106, 110. In accordance

¹ Undesignated statutory references are to the Penal Code.

with the latter, we will provide a summary of the offense and the proceedings in the trial court.

In July 2011 the victim M.B. was nine years old. Defendant, age 17 at the time, reached his hands inside M.B.'s pants and underwear, touched her genitals and buttocks, and digitally penetrated her. She told him to stop and tried to get away from him, but he held her around the waist and restrained her from leaving. M.B. was scared of defendant. He stopped touching her when his stepsister walked into the room. After the stepsister left, defendant started touching M.B. again. He continued until defendant's mother and aunt came into the house.

Defendant was charged with aggravated sexual assault of a child (§ 269, subd. (a)(5)), sexual penetration by force on a victim under 14 years old (§ 289, subd. (a)(1)(B)), three counts of forcible lewd act upon a child (§ 288, subd. (b)), and one count of lewd and lascivious conduct on a child under 14 years old (§ 288, subd. (a)). The parties reached a plea agreement under which defendant pleaded no contest to lewd and lascivious conduct for a stipulated term of eight years. The remaining charges were dismissed.

Defendant was sentenced to eight years in accordance with the plea agreement. He was awarded 256 days of presentence custody credits (223 actual and 33 conduct days) and ordered to pay a \$1,600 restitution fund fine, a suspended \$1,600 parole revocation fine, a \$30 criminal conviction assessment, a \$40 court operations fee, and a \$1,140 fine pursuant to section 290.3. Defendant's request for a certificate of probable cause was denied.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within

30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no communication from defendant. Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

BUTZ, Acting P. J.

We concur:

MURRAY, J.

DUARTE, J.