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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIA YESENIA HAROS,

Defendant and Appellant.

D059951

(Super. Ct. No. SCN238723)

APPEAL from a judgment of the Superior Court of San Diego County, Daniel B. Goldstein and Aaron H. Katz, Judges. Affirmed.

Dania Yesenia Haros entered a negotiated guilty plea to voluntary manslaughter (Pen. Code,¹ § 192, subd. (a), count 3); three counts of felony child abuse (§ 273a, subd. (a), counts 4, 5 & 6); and assault by means likely to produce great bodily injury (§ 245, subd. (a)(1), count 7), in exchange for a dismissal of the balance of the charges in the amended information of murder (§ 187, count 1) and assault on a child with force

¹ All statutory references are to the Penal Code unless otherwise indicated.

likely to produce great bodily injury (§ 273ab, count 2); a stipulated 16-year prison sentence; and treatment of the charges pled to as the equivalent of one strike pursuant to California Rules of Court, "rule 412."²

The court sentenced Haros to the stipulated prison term and awarded 1,413 days of presentence credit (1,229 actual days plus 184 days for good conduct). It ordered Haros to pay a \$200 court security fee (§ 1465.8); a \$150 criminal conviction assessment (Gov. Code, § 70373); a \$154 booking fee (Gov. Code, § 29550.2); a \$10,000 parole revocation fine (§ 1202.4, subd. (b)); and a \$10,000 parole revocation restitution fine, which was suspended unless parole is revoked (§ 1202.45). The court reserved jurisdiction over victim restitution. Haros was ordered to submit to DNA testing pursuant to section 296.

Haros did not obtain a certificate of probable cause.

On June 17, 2011, Haros filed a timely notice of appeal from the sentence or other postplea matters.

FACTS

The parties stipulated to the preliminary hearing transcript as the factual basis for the plea. The facts, as determined at that hearing are as follows.

In May 2006 Angelina, then three and a half years old, and a younger sister were placed in the licensed foster home of Haros and her husband as part of the adoptive process. Haros was the primary caregiver for the children. Haros became overwhelmed

² California Rules of Court, rule 412 was renumbered rule 4.412, effective January 1, 2001.

and frustrated with the ways things were going; she was angry with her husband as she felt he was neglecting her and not paying attention to the children. In September 2006 Haros began to abuse Angelina.

On November 18, 2006, Haros took the girls to a "Quinceañera" party. Haros's husband did not attend the party as he was working, and Haros was disappointed. She was angry when she returned home. Angelina asked Haros if she could sleep in her room, but Haros pushed the child away, causing the child to hit the back of her head against a nightstand. Angelina began to cry and complained her head really hurt. Haros lay down in the bed with her so they could go to sleep. Angelina stood up and began jumping on the bed and would not obey Haros's request to stop. Haros grabbed Angelina by the face and pushed her off the bed, causing the child to fall backward and strike the top of her head. Angelina cried and told her foster mother she was feeling very sleepy. Haros took Angelina to her bedroom. The two children began arguing and, as Angelina began to run after her younger sister, Haros pulled Angelina by the arm, causing her to fall and again hit her head on the floor. Angelina's eyes rolled backwards and Haros became scared. Angelina stood up and went to bed. Haros went back downstairs.

At approximately 1:30 a.m., Haros's husband arrived home. He heard noises from the children's room. He woke Haros and asked her to check on the children. Haros told her husband both children were asleep and that everything was fine. The foster parents then went to sleep.

Haros tried to awaken Angelina the next morning, but she was unresponsive. Angelina had vomit around her face and had wet her bed. Haros called her husband at

work and told him to come home. The foster parents took the child to Tri-City Medical Center.

At the hospital, doctors realized Angelina's injuries were life-threatening. She was transported by helicopter to Children's Hospital. In the early afternoon of November 19, 2006, Angelina was declared brain dead.

An autopsy revealed Angelina had 34 bruises throughout her body, which were in various stages of healing. Fifteen of those bruises were on the child's face. Under her scalp, the pathologist detected approximately 30 points of impact, with related hemorrhaging. The cause of death was determined to be blunt force to the head, injuring the brain and causing it to swell. The swelling interrupted the flow of blood to the brain, which caused it to die. The pathologist opined that Angelina would have been rendered unconscious soon after sustaining the injuries to her brain. He also opined that the child's injuries were consistent with her having been pushed and caused to hit the back of her head three times.

DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible, but not arguable, issues: (1) whether Haros was properly advised of her constitutional rights and the consequences of pleading guilty, and did she waive her rights before pleading

guilty; (2) whether Haros's guilty plea is constitutionally valid; and (3) whether the court abused its discretion in sentencing Haros.

We granted Haros permission to file a brief on her own behalf. She has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, and *Anders v. California, supra*, 386 U.S. 738, including the possible issues referred to by appellate counsel, has disclosed no reasonably arguable appellate issues.

Haros has been adequately represented by counsel on this appeal.

DISPOSITION

The judgment is affirmed.

IRION, J.

WE CONCUR:

HUFFMAN, Acting P. J.

MCINTYRE, J.