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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

ALFONSO ALVARADO,

Defendant and Appellant.

D062206

(Super. Ct. No. SCS252155)

APPEAL from a judgment of the Superior Court of San Diego County, Kathleen M. Lewis, Judge. Affirmed.

Cynthia A. Grimm, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Pursuant to a plea agreement, defendant Alfonso Alvarado pled guilty to one count of forcibly committing a lewd act on a person under the age of 14 and admitted that at the time of the offense he was over the age of 16. (Pen. Code, § 288, subd. (b)(1); Welf. &

Inst. Code, § 707, subd. (d)(1).) In exchange for the plea, the district attorney agreed to dismiss one count of sodomy by force on a person under the age of 14 (Pen. Code, § 286, subd. (c)(2)(A) & (B)) and four other counts of forcible lewd acts on a person under the age of 14. Alvarado stipulated to a sentencing range of from five to 10 years.

At sentencing, the victim, who is Alvarado's cousin, submitted a statement describing his continuing trauma, and the victim's psychologist submitted a statement in which he described the victim's continuing and irreparable harm. Although Alvarado submitted statements from a number of family members and other individuals in mitigation, the trial court imposed the upper term of 10 years in state prison.

Appointed appellate counsel has filed a brief summarizing the 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 lists as a possible, but not arguable, issue:

Whether the trial court abused its discretion in imposing the upper term.

We granted Alvarado permission to file a brief on his own behalf. He has not responded. Our 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 issue listed pursuant to *Anders v. California*, has disclosed no reasonably arguable appellate issues.

We find that Alvarado was adequately represented both at trial and on appeal.

DISPOSITION

The judgment is affirmed.

BENKE, Acting P. J.

WE CONCUR:

McDONALD, J.

O'ROURKE, J.