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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

DURRAY DAUNDUA COLLIER,

Defendant and Appellant.

D065475

(Super. Ct. No. SCD245187)

APPEAL from a judgment of the Superior Court of San Diego County, Leo Valentine, Jr., Judge. Affirmed.

Leonard J. Klaif, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In November 2013, A jury found Durray Daundua Collier guilty of five counts of committing a lewd act on a child under 14 years old (Pen. Code, § 288, subd. (a)), with substantial sexual contact as to counts 1 and 2 (Pen. Code, § 1203.066, subd. (a)(8)). In

February 2014, the court sentenced Collier to 10 years in prison: the six-year middle term on count 1, consecutive two-year terms (one-third the middle term) on counts 2 and 3 and concurrent six-year middle terms on counts 4 and 5. Collier appeals. We affirm.

BACKGROUND

The victim in all five counts is Collier's stepdaughter, A.S., who turned 13 in May 2013. The offenses began shortly before January 2012, when A.S. was in the sixth grade, and continued until she was in the seventh grade.

Collier would come into A.S.'s room when she was lying down. He would sit on her, and when she would try to get up, he would push her down. He would pull up her shirt and touch her breasts under her bra with his hands. When A.S. told Collier to stop, he laughed. The molestations happened after A.S. arrived home from school, and generally while her mother, C.C., was at work or in her room. The molestations happened more than twice. Collier got drunk a lot and usually smelled like beer when he touched A.S.

On one occasion, Collier put his hand in A.S.'s lap. On another occasion, Collier was lifting A.S.'s shirt and bra and touching her breasts when C.C. passed by. Collier stopped and A.S. started pulling her shirt down. C.C. told Collier that she did not want him and A.S. alone in the same room because A.S. was starting to become a woman. About a month later, C.C. saw Collier with his hand under A.S.'s shirt.

On another occasion, Collier got on top of A.S. and poked and slapped her stomach. A.S. was upset and crying. She called for her 15-year-old brother. Collier

laughed and said her brother would not do anything because he was not strong enough. The brother entered the room and after he left, Collier touched A.S.'s breasts.

One Sunday before church, A.S. and her four-year-old brother were in Collier's room watching a movie. Collier told the brother to leave the room, then turned off the lights, locked the door and put A.S. on the floor. Collier lifted A.S.'s skirt, removed her underwear and touched her private part with his hand. A.S. was scared and the touching hurt. Collier licked A.S.'s private part. A.S. started crying. C.C. knocked on the door. Collier told A.S. to go into the bathroom. Collier opened the bedroom door and C.C. came in. C.C. asked A.S. why she was in the room. A.S. said the other bathroom was occupied, so she had asked Collier for permission to use his bathroom.

A.S. did not tell C.C. what had happened because Collier said that if she told, the family would break apart. A.S. did not want the family to break apart. She was scared, so she began spending time at her friend's house and coming home late. A.S. thought it was her fault Collier had touched her.

Collier told A.S. that he had told his brother what he had been doing and the brother had told C.C. C.C. came to A.S.'s school and asked her if anything had happened between her and Collier. A.S. told C.C. what had happened. On November 9, 2012, a police officer came to the house and A.S. told him what had happened.

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

(*Wende*). Pursuant to *Anders v. California* (1967) 386 U.S. 738 (*Anders*) counsel mentions the following as possible but not arguable issues: (1) as to counts 3, 4 and 5, whether the evidence of indistinguishable generic acts of Collier's touching of A.S.'s breasts comports with the due process and unanimity requirements of *People v. Jones* (1990) 51 Cal.3d 294; (2) whether the court erred by allowing A.S. both a support person and a support dog during her testimony; (3) whether the jury was properly instructed regarding voluntary intoxication and whether there was sufficient evidence to support the convictions given the evidence of voluntary intoxication; and (4) whether the foreperson's interest in starting a college fund for the victim shows improper bias.

We granted Collier permission to file a brief on his own behalf. He has not responded. A review of the record pursuant to *Wende* and *Anders*, including the possible issues listed pursuant to *Anders*, has disclosed no reasonably arguable appellate issues. Collier has been competently represented by appellate counsel.

DISPOSITION

The judgment is affirmed.

NARES, Acting P. J.

WE CONCUR:

HALLER, J.

McINTYRE, J.