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COURT OF APPEAL, FOURTH APPELLATE DISTRICT
DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE NETZA MARTINEZ,

Defendant and Appellant.

D066659

(Super. Ct. No. SCS269689)

APPEAL from a judgment of the Superior Court of San Diego County, Garry G. Haehnle, Judge. Affirmed.

David K. Rankin, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Jose Netza Martinez pleaded guilty to one count of continuous sexual abuse of a child (Pen. Code, § 288.5, subd. (a))¹ and admitted having substantial sexual conduct with a child under the age of 14 years (§ 1203.066, subd. (a)(8)). He also admitted that the victim was under the age of 18 years and that the court's action began prior to the

¹ All statutory references are to the Penal Code.

victim's 28th birthday. (§ 801.1, subd. (a).) The trial court sentenced Martinez to 16 years in prison and ordered him to pay fines and fees.

Appointed appellate counsel filed a brief presenting no argument for reversal, but inviting this court to review the record for error in accordance with *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). After having independently reviewed the entire record for error, as required by *Anders v. California* (1967) 386 U.S. 738 (*Anders*) and *Wende*, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On January 13, 2014, Martinez was charged with four counts of committing a lewd act upon a child, four counts of committing a lewd act upon a child 14 or 15 years of age, four counts of unlawful sexual intercourse with a minor under 16 years of age, oral copulation on a person under 16 years of age, four counts of oral copulation of a person under 18 years of age, and one count of secretly filming a person. (§§ 288, subd. (a), 288, subd. (c)(1), 261.5, subd. (d), 288a, subd. (b)(2), 288a, subd. (b)(1), 647, subd. (j)(3)(A).) The victim was Martinez' stepdaughter.

On June 23, 2014, Martinez pleaded guilty to one count of continuous sexual abuse of a child and admitted that substantial sexual conduct had occurred when the victim was less than 14 years old. (§§ 288.5, subd. (a), 1203.066, subd. (a)(8).) The prosecution agreed to dismiss the other counts and allow the trial court to determine the length of the sentence, which was to be either 12 or 16 years in state prison. Martinez filed a written guilty plea acknowledging he had been advised of his constitutional rights and the consequences of his guilty plea. He admitted that he lived in the same home with

the victim, who was under the age of 14 at the time, and that he had substantial sexual contact with her. The court advised Martinez of his constitutional and trial rights and the consequences of his guilty plea. Martinez, under oath, acknowledged he was advised of his constitutional rights and the charges against him, and wished to plead guilty.

At sentencing, the court found that Martinez' sexual abuse of the victim continued for seven years and stopped only when the victim moved away from home. Because Martinez continuously sexually abused the victim during an extended period of time, the court imposed the upper term of 16 years. Martinez received 279 days credit, calculated as 243 actual days plus 36 days work time credit.

DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings in the trial court. Counsel has presented no argument for reversal, and invited this court to review the record for error in accordance with *Wende, supra*, 25 Cal.3d 436. Pursuant to *Anders, supra*, 386 U.S. 738, counsel identified the following as possible, but not arguable, issues:

- "1. Was appellant advised of his trial rights and the consequences of his plea prior to entering the plea bargain?
- "2. Is there a factual basis for the plea?
- "3. Did appellant receive the agreed sentence?
- "4. Did appellant receive the correct pre-sentencing credit?
- "5. Did the sentencing judge abuse his discretion in imposing the upper term of 16 years?"

A review of the record pursuant to *Wende, supra*, 25 Cal.3d 436, and *Anders, supra*, 386 U.S. 738, including the issues suggested by counsel, has disclosed no reasonably arguable appellate issue. We granted Martinez permission to file a brief on his own behalf. He has not responded. Martinez has been represented by competent counsel on this appeal.

DISPOSITION

The judgment is affirmed.

BENKE, J.

WE CONCUR:

McCONNELL, P. J.

HUFFMAN, J.