Filed 9/28/12 P. v. Gonzalez CA4/2

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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

| | |
|---|---|
| THE PEOPLE,<br><br>Plaintiff and Respondent,<br><br>v.<br><br>MARY CRUZ GONZALEZ,<br><br>Defendant and Appellant. | E055268<br><br>(Super.Ct.No. RIF10001420)<br><br>OPINION |

APPEAL from the Superior Court of Riverside County. J. Thompson Hanks, Judge. (Retired judge of the Riverside Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Reed Webb, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

## INTRODUCTION

On August 19, 2010, an information charged defendant and appellant Mary Cruz Gonzalez with inflicting cruel and inhuman corporal punishment and injury resulting in a traumatic condition upon a child, Jane Doe, under Penal Code[1] section 273d, subdivision (a) (counts 1, 2 & 3); and with inflicting unjustifiable physical pain and mental suffering upon a child, Jane Doe, under section 273a, subdivision (a) (counts 4 & 5). As to count 1, the information further alleged that defendant personally inflicted great bodily injury on a child under the age of five under section 12022.7, subdivision (d). After a jury trial, on September 28, 2011, the jury returned not guilty verdicts on counts 1 and 3; and the trial court declared a mistrial for the remaining counts on which the jury was unable to reach a unanimous decision.

On November 7, 2011, defendant entered into a negotiated plea agreement. She pled guilty to count 2 (unlawful corporal punishment), and count 4 (child endangerment). The parties agreed to a sentence of three years four months in state prison. Defendant then waived her rights to a presentencing probation report, and to have the same judicial officer pronounce judgment.

On November 29, 2011, defendant was sentenced to serve in state prison for the low term of two years for count 2, and a consecutive 16 months (one-third the midterm) on the subordinate term for count 4. The court then determined that she had 616 days of presentence custody credits, and awarded an additional 616 days of conduct credits for a

[1] All statutory references are to the Penal Code unless otherwise specified.

total of 1232 days of credit. Since the prison sentence was for approximately 1200 days (40 months x 30 days), which was less than defendant's accrued days of credit, defendant's prison sentence resulted in a "paper commitment" and she was released to parole supervision.

On December 19, 2011, defendant filed a notice of appeal; there was no request for a certificate of probable cause under section 1237.5.

## STATEMENT OF FACTS

In taking defendant's guilty plea, the trial court described the factual basis specific to each count, and defendant admitted to the court that there was a factual basis for entering the guilty plea as to both counts. During defendant's trial, evidence showed that defendant made admissions to a police officer that she had hit her daughter in the back of the head causing the child to go forward and strike the corner of a table. Defendant also admitted striking her daughter's face with her fist on another occasion.

## ANALYSIS

After defendant appealed, and upon her request, this court appointed counsel to represent her. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 setting forth a statement of the case, a summary of the facts, and potential arguable issues, and requesting this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, but she has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

**DISPOSITION**

The judgment is affirmed.

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MCKINSTER
Acting P. J.

We concur:

MILLER
J.

CODRINGTON
J.