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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

OSCAR NAPOLES,

Defendant and Appellant.

E059855

(Super.Ct.No. FVA1201386)

OPINION

APPEAL from the Superior Court of San Bernardino County. Steven A. Mapes, Judge. Affirmed.

Allen G. Weinberg, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Oscar Napoles is serving 24 years in prison after a jury convicted him of numerous charges for molesting his wife's younger sister over a period of three years. As discussed below, we affirm the conviction and sentence.

FACTS AND PROCEDURE

Between 1995 or 1996 and 1998, defendant sexually abused his wife's sister approximately every other day while they were all living at the home of the sisters' parents. The victim was at that time between six and eight or nine years old. She did not tell anyone at that time because defendant told her that everyone would hate her if they found out. The abuse stopped in about 1998 when defendant and his wife separated.

When the victim was 13 years old, she told her sister what had happened. The sister called defendant to confront him and he asked her if she was going to call the police. The sister put the victim on the phone with defendant, who cried and apologized. Neither sister told the police because they did not want to upset their mother.

In 2012, the sister learned more about the abuse from the victim after the sister's current husband started asking questions. The sister called police to make a report. The victim talked to police and described the abuse. During a pretext telephone call between the victim and defendant that police set up and recorded, defendant would not discuss the details of the abuse, but apologized for putting her through a "mess," said, "You were just there. I don't know why I did it" and "I did what I should not have done to you."

Defendant was initially charged with nine sexual offenses in a complaint filed on September 21, 2012. The preliminary hearing was held on January 10, 2013, after which the court held defendant to answer on all charges. Defendant's jury trial began June 25, 2013. On July 9, 2013, the People filed a second amended information charging defendant with one count of continuous sexual abuse (Pen. Code, § 288.5, subd. (a)) and seven counts of committing a lewd act on a child (Pen. Code, § 288, subd. (a)). On July

16, 2013, the jury found defendant not guilty of one of the lewd act charges, but guilty on each of the other seven charges.

On September 27, 2013, the trial court sentenced defendant to the middle term of 12 years for the continuous sexual abuse conviction and consecutive two-year terms for the other six convictions, for a total sentence of 24 years in state prison.

This appeal followed.

DISCUSSION

After defendant appealed, and upon his request, this court appointed counsel to represent him. 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 he 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 of conviction is affirmed.

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GAUT
J.

We concur:

RAMIREZ
P. J.

MILLER
J.