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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.

STEVEN CLARK FENNER, SR.,

Defendant and Appellant.

E061788

(Super.Ct.No. SWF1302809)

OPINION

APPEAL from the Superior Court of Riverside County. Albert J. Wojcik and Raquel A. Marquez, Judges. Affirmed.

Martin Kassman, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Pursuant to a negotiated plea agreement, defendant and appellant Steven Clark Fenner, Sr., pled guilty to two counts of lewd and lascivious acts upon a child under the

age of 14 years (Pen. Code, § 288, subd. (a))<sup>1</sup> and two counts of lewd and lascivious acts upon a child under the age of 14 years by force, fear, or duress (§ 288, subd. (b)). In return, the remaining charges and enhancement allegations were dismissed and defendant was sentenced to a stipulated term of 20 years in state prison with credit for time served. Defendant appeals from the judgment, challenging the validity of the plea or admission. We find no error and affirm.

## I

### FACTUAL AND PROCEDURAL BACKGROUND<sup>2</sup>

From July 2009 through July 2013, defendant sexually molested Jane Doe 1 and Jane Doe 2. Defendant was required to register as a sex offender and was on probation in another matter at the time the complaint was filed.

On October 18, 2013, in case No. SWF1302809 a felony complaint and a petition to revoke defendant's probation in case No. SWM1205518 was filed. The complaint alleged that defendant committed one count of rape on a child under 14 years of age and seven or more years younger than defendant (§§ 269, subd. (a)(1), 261, subd. (a)(2); count 1); one count of oral copulation by force, fear, or duress on a child under 14 years of age and seven or more years younger than defendant (§§ 269, subd. (a)(4), 288a; count 2); four counts of lewd acts upon a child under the age of 14 years (§ 288, subd. (a); counts 3, 6, 7 & 8); two counts of lewd acts on a child under the age of 16 years and more

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<sup>1</sup> All future statutory references are to the Penal Code unless otherwise stated.

<sup>2</sup> As the parties stipulated to a factual basis for the plea, the factual background is taken from the felony complaint.

than 10 years younger than defendant (§ 288, subd. (c)(1); counts 4 & 5); one count of inflicting corporal injury on a spouse, former spouse, or cohabitant (§ 273.5, subd. (a); count 9); and one count of failing to register as a sex offender within five working days of changing residence (§ 290, subd. (b); count 10). In regards to counts, 1, 2, 3, 6, 7, and 8, the complaint further alleged that defendant committed the offenses against more than one victim within the meaning of section 667.61, subdivision (e)(4).

On May 30, 2014, the trial court granted the People's oral motion to amend the complaint to add two counts of lewd acts by force, fear, or duress upon a child under the age of 14 years in violation of section 288, subdivision (b) (counts 11 and 12). On that same day, defendant entered into a negotiated plea agreement and pled guilty to counts 3, 6, 11, and 12. In return, the remaining charges and enhancement allegations would be dismissed and defendant would be sentenced to a stipulated term of 20 years in state prison with credit for time served. After directly examining defendant, the trial court found that defendant willfully, knowingly, intelligently, and voluntarily waived his rights and entered the pleas of guilty; and that there was a factual basis for the pleas. Defendant also was advised of his right to be sentenced by the judge who took the plea, and waived that right and agreed to have any judge who might be sitting in the courtroom sentence him at the time sentence is imposed.

The sentencing hearing was held on June 19, 2014. At that time, Judge Raquel A. Marquez again went over the felony plea form with defendant and whether defendant understood the consequences of his plea. Judge Marquez also advised defendant of his constitutional rights and whether he understood those rights. After defense counsel

advised Judge Marquez that defendant had already pled guilty to counts 3, 6, 11, and 12 in another courtroom, and that they were there only for sentencing, Judge Marquez proceeded to impose the sentence. Defendant was sentenced in accordance with his plea agreement as follows: eight years on count 11, plus eight years on count 12, plus two years each on counts 3 and 6. The remaining charges and enhancement allegations were dismissed, and defendant was awarded a total of 266 days credit for time served.

On August 20, 2014, defendant filed a notice of appeal, challenging the validity of the plea or admission, and a request for certificate of probable cause. In his request for certificate of probable cause, defendant essentially claimed that he was pressured into taking the plea. Defendant's request for certificate of probable cause was granted.

## II

### DISCUSSION

After defendant appealed, 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 conduct an independent review of the record.

We offered defendant an opportunity to file a personal supplemental brief, and he has not done so.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the entire record for potential error and find no arguable error that would result in a disposition more favorable to defendant.

III

DISPOSITION

The judgment is affirmed.

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RAMIREZ

P. J.

We concur:

McKINSTER

J.

MILLER

J.