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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

RUTH JUANITA KEETON,

Defendant and Appellant.

F071495

(Kern Super. Ct. No. BF153744A)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Kern County. Craig Phillips, H.A. Staley, Michael Bush, and John Somers, Judges.†

Stephanie L. Gunther, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the Attorney General, Sacramento, California, for Plaintiff and Respondent.

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\* Before Levy, Acting P.J., Gomes, J. and Poochigian, J.

† Judge Phillips presided over the preliminary hearing; Judge Staley presided over the arraignment and ruled on defendant's motions to quash and for bail review/reduction; Judge Bush ruled on defendant's demurrer and motion to set aside; and Judge Somers presided over the change of plea and sentencing hearings.

## **INTRODUCTION**

Appellant/defendant Ruth Keeton was driving her car while under the influence of a combined use of a central nervous system depressant and narcotic analgesic. She hit a bicyclist with such force that he was thrown into the air, and he suffered serious injuries.

Defendant pleaded no contest to felony willfully and unlawfully driving a vehicle while under the influence of a drug, and doing an act forbidden by law by unsafely passing on the right side, which caused bodily injury to the victim (Veh. Code, § 23153), with an enhancement for personal infliction of great bodily injury (Pen. Code, § 12022.7). She was placed on probation subject to certain terms and conditions.

On appeal, her appellate counsel has filed a brief that summarizes the facts with citations to the record, raises no issues, and asks this court to independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). We affirm.

## **FACTS<sup>1</sup>**

At 5:45 p.m. on March 9, 2014, Raymond Chavez (Chavez) was riding his mountain bicycle on a three-mile trek. He was going northbound on Akers Road. There was no bicycle lane, but he was riding close to the right curb and sidewalk. There were two parked cars in front of him. As he was riding, suddenly everything turned “black,” and he was knocked unconscious. Chavez believed that he was pushed into the two parked cars and catapulted over them.

When Chavez regained consciousness, a bystander assured him that an ambulance was on its way. He realized that his right arm was bent back, and he was bleeding from his head, face, and mouth.

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<sup>1</sup> The following facts are from the preliminary hearing transcript given defendant’s no contest plea.

Officer Aaron Beahm arrived at the scene as the paramedics were treating Chavez. Beahm testified a gold four-door sedan had crashed into a blue Honda Civic. The Honda had been parked against the east curb. The gold sedan had moderate front end damage.

Officer Beahm testified defendant was standing in front of an adjacent house. Beahm testified defendant was not crying, and she “had a blank stare. Kind of wasn’t looking at anything. She was kind of just focused on one fixed point.”

Officer Beahm asked defendant if she was the driver of the vehicle. Defendant said yes. Beahm asked what happened and if she could recall the collision. Defendant said she could not recall it and thought she had blacked out. Defendant provided her driver’s license.

As Officer Beahm spoke to defendant, he noticed that her eyelids were dropping, she was very lethargic, and she was slow to respond to his questions.

### **Eyewitness accounts**

Officer Beahm spoke to several eyewitnesses. Mr. Gill said he was riding his bicycle southbound on Akers Road. He said that a car was traveling northbound, and it swerved to the east curb line and pinned a bicyclist against a parked car. Mr. Gill identified defendant as the driver of the car. After defendant hit the bicyclist, he saw the victim “fly up in the air and eventually come to rest with his face” underneath defendant’s car. Fluid from the car was dripping on the bicyclist’s face. Mr. Gill pulled the bicyclist from under the car to prevent further injuries.

Lashaka Pleasant, who lived on Akers Road, said she was sitting in her driveway and heard tires squealing as a car crashed into a parked car. Ms. Pleasant said she saw a person “flying in the air” after the collision.

Nathan Hobson said he was driving north on Akers Road at about 40 miles an hour. A car drove up behind him, and it was going 55 to 60 miles per hour. Suddenly, the vehicle swerved to the right and he heard a collision. He parked his car and went to the site of the collision where he saw a bicyclist on the ground. The driver who caused

the collision was still in her vehicle, and she appeared to have a blank stare on her face. After a while, the driver got out of her vehicle and used her cell phone as she stood in front of an adjacent house. Autumn Ketchum was in the car with Hobson, and heard the collision. She looked in the passenger side rearview mirror and saw a person “flying in the air.” She called 911 while Hobson got out to check on the victim.

### **Officer Brown’s testimony**

Officer Eli Brown, a qualified drug recognition expert, arrived at the scene and was briefed by Officer Beahm. Brown contacted defendant and asked what happened. Defendant said she was driving to the market to buy cigarettes. Defendant said she pulled over to the side of the road and did not see the bicyclist. Brown asked defendant if she saw the vehicle that she hit. Defendant then changed her story and said she had diabetes and possibly blacked out due to complications from diabetes.

Officer Brown spoke to defendant for 10 to 15 minutes. He testified defendant was very slow to respond to his questions. She seemed very drowsy and lethargic, and her eyelids were droopy. Her balance was unsteady, and she swayed in a circular motion.

Officer Brown testified defendant showed signs of possible impairment. He asked defendant if she was taking any medications, and she said she took insulin for diabetes. Brown asked the paramedics to examine defendant, and they determined she was not suffering from a diabetic-related condition.

Officer Brown conducted a series of field sobriety tests. Based on her conduct, Brown believed she showed signs of impairment from a central nervous system depressant rather than from alcohol.

Officer Brown transported defendant to the police station and advised her of the warnings pursuant to *Miranda v. Arizona* (1966) 384 U.S. 436. He conducted a preliminary alcohol screening test, which revealed a blood-alcohol level of 0.00 percent and thus eliminated alcohol as a factor.

Officer Brown asked defendant additional questions. She said she took Clonazepam for anxiety and Norco, a narcotic analgesic, at 7:00 a.m. that morning, and that she had prescriptions for them. Defendant admitted a prior drug history, but said she had not taken illegal drugs for one year.

Officer Brown concluded defendant was under the influence of a combined use of a central nervous system depressant and narcotic analgesic, and she was too impaired to safely drive a car.

### **The victim's injuries**

Chavez suffered a broken tibia in his left leg that required placement of a pin, and a skin graft using skin from his right thigh. He also suffered a broken right arm and had a two-inch gash on the top of his head. Eight medical procedures were required to treat his injuries, including a skin graft and pin placements.

At the time of the preliminary hearing, he was confined to a wheelchair because he had not been cleared to use crutches or walk. He was still being treated by two physicians, an orthopedic surgeon and a plastic surgeon.

### **The charges**

On June 4, 2014, an information was filed in the Superior Court of Kern County charging defendant with count I, felony willfully and unlawfully driving a vehicle while under the influence of a drug, and committing an act forbidden by law by unsafely passing on the right side, which caused bodily injury to Chavez (Veh. Code, § 23153, subd. (e)), with an enhancement for personal infliction of great bodily injury (Pen. Code, § 12022.7). Defendant pleaded not guilty and denied the allegation.

### **Plea proceedings**

On March 25, 2015, the court stated that a negotiated disposition had been reached for defendant to plead no contest to the charged offense and admit the great bodily injury enhancement. She would receive a maximum possible term of one year and up to five years on probation.

Chavez was present at the plea hearing, and the court asked him to discuss his injuries. Chavez said he still suffered from his injuries, and his entire lifestyle had changed. He had been in the hospital for 18 days and had seven surgeries. He had to return to the hospital for his eighth surgery, which was a very painful procedure to close the gash on his scalp. Chavez could not walk very far or perform many physical activities, and his right arm movement was limited. He was able to ride a bicycle again for some exercise. Chavez did not object to the plea but wanted defendant held accountable for her conduct.

After hearing from Chavez, the court decided to accept defendant's plea. She pleaded no contest to the charged offense and admitted the enhancement.

### **Sentencing**

On April 22, 2015, the court conducted the sentencing hearing and placed defendant on probation for five years subject to certain terms and conditions, including service of 292 days in jail; suspension of her driving privilege for one year; to "absolutely refrain from using or possessing, and not to have under her control" any narcotic, restricted dangerous drug, marijuana or hallucinogenic drug; submit to drug testing as order by the probation officer; perform 200 hours of community service; attend psychiatric counseling; and participate and successfully complete outpatient substance abuse counseling.

The court advised defendant that if she continued to drive while under the influence of alcohol and/or drug, and someone was killed as a result, she could be charged with murder. Defendant acknowledged this advisement and also signed a written advisement.

Defense counsel objected to the order for outpatient substance abuse counseling because defendant was already being ordered to attend psychiatric counseling. The court denied the objection because defendant demonstrated poor judgment by driving under the

influence of medication and causing severe injuries to the victim. The court was concerned about the potential for abuse.

The prosecutor stated that defendant lived near Chavez, who reported there had been “unwelcome contact initiated by defendant,” and asked the court to impose a stay-away order. The court agreed and, as an additional term of probation, ordered defendant to stay 100 yards away from the victim’s residence or place of employment, unless she was driving on a public street on the way to another destination.

On April 24, 2015, defendant filed a timely notice of appeal. She did not request or obtain a certificate of probable cause.

### **DISCUSSION**

As noted above, defendant’s counsel has filed a *Wende* brief with this court. The brief also includes the declaration of appellate counsel indicating that defendant was advised she could file her own brief with this court. By letter on October 20, 2015, we invited defendant to submit additional briefing. She has failed to do so.

After independent review of the record, we find that no reasonably arguable factual or legal issues exist.

### **DISPOSITION**

The judgment is affirmed.