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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

MANUEL DIAZ SAVALZA,

Defendant and Appellant.

G046168

(Super. Ct. No. 10NF1398)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Ronald Klar, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Patrick J. Hennessey, Jr., under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

* * *

Defendant Manuel Diaz Savalza was charged by felony complaint with eight counts of committing a lewd act upon a child under the age of 14 (Pen. Code, § 288, subd. (a); counts 1 through 8),¹ three counts of committing a lewd act upon a 14-year-old child at least 10 years younger than defendant (§ 288, subd. (c)(1); counts 9 through 11), and that with respect to counts 5, 6, 7, and 8, he engaged in substantial sexual conduct with a child under the age of 14 (§ 1203.066, subd. (a)(8)).

Before any preliminary hearing was held, and pursuant to the court's indicated sentence, defendant withdrew his not guilty pleas and pleaded guilty to all counts and allegations. Defendant signed and initialed the *Tahl*² form waiving his rights, inter alia, to a preliminary hearing, to trial by jury, to confront and cross-examine witnesses, to subpoena witnesses for his defense, to testify in his own behalf, and his privilege against self-incrimination. As the factual basis for his plea, defendant stated: "In Orange County, California, on or about and between 4/6/03 to 4/6/05, 4/6/05 to 4/5/06 and 4/6/06 to 4/5/08, I willfully, lewdly, and unlawfully committed a lewd and lascivious act upon the body of Jane Doe, a child under fourteen years, with the specific intent of arousing my sexual desires. In Orange County, California, on or about and between 4/6/08 to 4/5/09, and 4/5/09 to 5/31/09, I willfully, lewdly, and unlawfully committed a lewd and lascivious act upon the body of Jane Doe, a child of fourteen or fifteen years and at least ten years younger than me, with the intent of arousing my sexual desires. I also admit that I engaged in substantial sexual conduct with Jane Doe while she was under fourteen years old."

Pursuant to the plea and the indicated sentence, the court sentenced defendant to the upper term of eight years on count 1 (§ 288, subd. (a)), an additional consecutive two-year term (one-third the midterm) on count 2 (§ 288, subd. (a)), and

¹ All further statutory references are to the Penal Code.

² *In re Tahl* (1969) 1 Cal.3d 122.

concurrent midterm sentences on the remaining counts, for a total of 10 years in state prison. Defendant was granted custody credits of 540 days of actual custody and 81 days of conduct credit, for total custody credits of 621 days.

Defendant timely filed a notice of appeal, and we appointed counsel to represent him. Counsel did not argue against defendant, but advised the court he was unable to find an issue to argue on defendant's behalf. Defendant was given 30 days to file written argument in his own behalf. That period has passed, and we have not received any communication from him. We have examined the entire record and have not found an arguable issue. (*People v. Wende* (1979) 25 Cal.3d 436.) The record reflects defendant was painstakingly advised of his rights, both orally and in the *Tahl* form, he was given additional time to discuss the plea with his attorney after he had expressed uncertainty whether he had discussed all aspects of the plea with his lawyer, and following that additional discussion, stated that he understood the consequences of his plea. Defendant's custody credits were correctly calculated, and his sentence was lawful. Accordingly, we affirm the judgment.

IKOLA, J.

WE CONCUR:

O'LEARY, P. J.

RYLAARSDAM, J.