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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

RICHARD BONNIE EVANS,

Defendant and Appellant.

H041249

(Santa Clara County

Super. Ct. No. B1368436)

On April 7, 2014, pursuant to a negotiated disposition, defendant Richard Bonnie Evans pleaded no contest to two counts of committing a lewd and lascivious act on a child under 14 years of age (Pen. Code § 288, subd. (a));¹ count 1, victim Jane Doe I; count 5, victim Jane Doe II). Defendant admitted that he had committed each offense against more than one victim within the meaning of section 667.61, subdivisions (b) and (e). In exchange for his no contest pleas, defendant was promised a sentence of 30 years to life in prison and the dismissal of 18 other counts, which included 13 more counts of committing a lewd or lascivious act on a child under 14 years of age (§ 288, subd. (a)); three counts of aggravated sexual assault on a child under 14 years of age (§ 269); one count of oral copulation with a minor (§ 288a, subd. (b)(1)); and one count of forcible rape (§261, subd. (a)(2).)²

¹ All unspecified section references are to the Penal Code.

² In counts 2 through 4 and 10 through 20 it was alleged that defendant committed the offenses against more than one victim. (§ 667.61, subs. (b) & (e).) It appears that all the victims were defendant's daughters.

On May 22, 2014, consistent with the plea agreement, the court sentenced defendant to two fifteen-year-to-life terms to be served consecutively and dismissed the remaining counts and allegations. The court awarded defendant 293 days of presentence custody credits—255 actual days and 38 days of conduct credits.³ The court imposed a \$10,000 restitution fund fine (§ 1202.4, subd. (b)(1)) and imposed but suspended a parole revocation fine in the same amount (§1202.45). The court imposed fees pursuant to section 1465.8 (court security fee) and Government Code section 70373 (criminal conviction assessment), and ordered that defendant pay \$2,268.20 to the Victim Compensation and Government Claims Board.

Following the filing of the notice of appeal, we appointed counsel to represent defendant in this court. Counsel has filed an opening brief that states the facts, but has raised no specific issues.

On January 22, 2015, we notified defendant of his right to submit written argument on his own behalf within 30 days. To date, we have not received a response from defendant.

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we have reviewed the entire record and have concluded that there are no arguable issues. Pursuant to *People v. Kelly* (2006) 40 Cal.4th 106, we provide “a brief description of the facts . . . of the case, the crimes of which the defendant was convicted, and the punishment imposed.” (*Id.* at p. 110.)

³ Defendant’s conduct credits were limited to 15 percent of actual days in accordance with section 2933.1.

Facts⁴

When Jane Doe was between seven and nine years old, defendant, who is her father, regularly entered her bedroom at night to give her a backrub. Jane slept on the bottom bunk of the bunk bed and her sister (another victim) slept on the top bunk. Jane's father told Jane to remove her shirt for the back rub. Her father started the back rub at the top of her back, moved down to her buttocks, and then down her legs. Defendant pulled down Jane's shorts and told her to spread her legs. Then, the defendant massaged her legs from her feet up to her thighs; he told her to turn over and rubbed her naked breasts. Defendant kissed Jane's vagina and massaged her clitoris with his hand at the same time. When he finished, defendant had Jane lie on top of him on the bed; he kissed her breasts. Defendant never said anything other than to tell Jane to take off her clothes or put them back on, or to ask her if what he was doing felt good. Jane believed that defendant started doing these things to her when she was seven or eight; and it occurred once a week until she was 13 or 14 years old.

Proceedings Below

At the April 7, 2014 hearing, defendant executed an "Advisement of Rights, Waiver, and Plea Form" in which he acknowledged that he understood his constitutional rights; he gave up those rights. The court confirmed with defendant that it was his signature and his initials that were on the waiver form. Defendant acknowledged that he had read and understood everything that he had initialed and signed. Thereafter, defendant entered his no contest pleas.

⁴ The facts underlying count 1 are taken from the probation officer's report in the case. However, the facts underlying count 5, which were prosecuted as involving Jane Doe II, do not appear to be contained anywhere in the record. The probation officer's report refers to three other Doe victims, but it is impossible to tell which of these victims were involved in which count. Nevertheless, we note that at the time he entered his plea defendant admitted that there was a factual basis for his plea as to count 5. Further, counsel stipulated that there was a factual basis for defendant's plea contained in the police reports.

Upon our independent review of the record we conclude that there are no meritorious issues to be argued, or that require further briefing on appeal. We discern no error in the sentencing; defendant received the sentence he was promised. The restitution fine and the fees the court imposed are supported by the law and facts. At all times, defendant was represented by competent counsel.

Disposition

The judgment is affirmed.

ELIA, J.

WE CONCUR:

RUSHING, P. J.

PREMO, J.