Filed 4/6/09 P. v. Kindle CA2/7

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

**California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

| | |
|---|---|
| THE PEOPLE,<br><br>Plaintiff and Respondent,<br><br>v.<br><br>DENNIS LIONEL KINDLE,<br><br>Defendant and Appellant. | B207277<br><br>(Los Angeles County<br>Super. Ct. No. TA085707) |

APPEAL from a judgment of the Superior Court of Los Angeles County, John J. Cheroske, Judge. Affirmed.

Meredith J. Watts, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

---

Dennis Lionel Kindle stabbed Marvelle Ballard and stabbed and killed Lashonta Blanton during a party. Kindle was charged in a one-count information with the murder of Blanton (Pen. Code, § 187, subd. (a))[1] with a special allegation of having personally used a deadly weapon (a knife) to commit the offense (§ 12022, subd. (b)(1)).

Appearing with appointed counsel, Kindle entered a negotiated plea of no contest to the voluntary manslaughter of Blanton (§ 192, subd. (a)) (amended count 2) and to assault with a deadly weapon against Ballard (§ 245, subd. (a)(1)) (amended count 3). As to amended count 2, Kindle admitted having personally used a knife to commit voluntary manslaughter. As to amended count 3, Kindle admitted having inflicted great bodily injury in committing assault with a deadly weapon (§ 12022.7, subd. (a)).

The record of the plea hearing established Kindle was advised of and waived his constitutional rights and was advised of and acknowledged he understood the consequences of his plea. Counsel joined in the waivers and stipulated to a factual basis for the plea based on the preliminary hearing transcript and the police report. The trial court found Kindle had knowingly, voluntarily and intelligently waived his constitutional rights and entered his no contest plea.

In accordance with the plea agreement, Kindle was sentenced to an aggregate state prison term of 14 years: On amended count 2, the upper term of 11 years for voluntary manslaughter, plus one year for having personally used a knife; on amended count 3, a consecutive term of one year (one-third the middle term of three years) for aggravated assault, plus one year for having inflicted great bodily injury (one-third the term of three years). The court ordered Kindle to pay a $20 security fee and a $2,800 restitution fine. A parole revocation fine was imposed and suspended pursuant to section 1202.45.

As for presentence custody credit, the parties stipulated such credit would be applied to case No. YA063317, on which Kindle had been previously sentenced and was currently serving a state prison commitment. Kindle was resentenced in case No.

---

[1] Statutory references are to the Penal Code unless otherwise indicated.

YA063317 to a term of three years four months and received presentence custody credit of 954 days (830 actual days and 124 days of conduct credit).

Kindle filed a timely notice of appeal in which he stated his appeal was "based solely on grounds occurring after entry of such plea that do not challenge the validity of the plea." Kindle did not request a certificate of probable cause. We appointed counsel to represent him on appeal.

After examination of the record counsel filed an "Opening Brief" in which no issues were raised. In her brief counsel asked us to conduct an independent review pursuant to *People v. Kelly* (2006) 40 Cal.4th 106 and *People v. Wende* (1979) 25 Cal.3d 436, 441 to determine if the record reveals any issue that might result in reversal or modification of the judgment. On December 29, 2008, we advised Kindle he had 30 days within which to personally submit any contentions or issues he wished us to consider. No response has been received to date.

In the absence of a certificate of probable cause, Kindle is seeking review on appeal of so-called noncertificate issues–"postplea questions not challenging his plea's validity and/or questions involving a search or seizure whose lawfulness was contested pursuant to [Penal Code] section 1538.5." (*People v. Mendez* (1999) 19 Cal.4th 1084, 1088; see Cal. Rules of Court, rule 8.304(b)(5).) We have independently examined the record and are satisfied Kindle's attorney has fully complied with the responsibilities of counsel and no arguably meritorious noncertificate issues exist.

The judgment is affirmed.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

**WOODS, Acting P. J.**

**We concur:**

**ZELON, J.** **JACKSON, J.**