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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.

LATONJA JOHNSON,

Defendant and Appellant.

E073978

(Super.Ct.No. FSB1503198)

OPINION

APPEAL from the Superior Court of San Bernardino County. William Jefferson Powell IV, Judge. Affirmed.

Jan. B. Norman, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

## INTRODUCTION

A jury found defendant and appellant Latonja Johnson guilty of two counts of knowingly presenting a fraudulent claim for the payment of a loss or injury on July 18, 2013, and July 31, 2013 (Pen. Code, § 550, subd. (a)(1), counts 1 & 3) and two counts of making a knowingly false material representation for the purpose of obtaining workers' compensation benefits (Ins. Code, § 1871.4, subd. (a)(1), counts 2 & 4). It also found true, under the aggravated white collar crime enhancement, that the offenses in counts 1 through 4 resulted in the loss by another person or entity of more than \$100,000. (Pen. Code, § 186.11, subd. (a)(3).) A trial court exercised its discretion to deny probation and sentenced defendant to the total term of five years in state prison, comprised of the middle term of three years on count 1, plus a consecutive one year on the enhancement, and one-third the midterm of one year on count 3. The court imposed the term of two years on counts 2 and 4 but stayed both terms under Penal Code section 654. It also found that the actual loss exceeded \$100,000 and ordered defendant to pay victim restitution.

Defendant filed a timely notice of appeal. We affirm.

## FACTUAL BACKGROUND

In July 2013, defendant worked at two different jobs. She worked at Goodwill as an e-commerce book handler, sorting books that had been donated. She also worked for a company called Advantage Sales and Marketing (ASM) as an events specialist. Her job was to hand out food samples at Sam's Club. Defendant filed a worker's compensation

claim with Goodwill on July 18, 2013, claiming she injured her back on July 12, 2013, while lifting books out of a book bin. She filed a second worker's compensation claim with ASM on July 31, 2013, claiming she injured her back on July 11, 2013, while lifting a small oven used to heat food. Defendant proceeded to be treated by two sets of doctors under both claims.

On May 29, 2015, defendant was interviewed by investigators from the Workers' Compensation Fraud Unit of the San Bernardino County District Attorney's Office for filing two claims with two separate employers while working for both at the same time. She said she was employed by Goodwill, and she had filed a claim for her back injury from July 12, 2013, and was treated by company doctors. Defendant said she did not work for another employer while employed with Goodwill. She said she was hired by ASM but only trained with them and did not officially work for them. Defendant said she told her supervisor at Sam's Club that she was hurt but that she was not injured at Sam's Club. She claimed her supervisor forced her to file paperwork with ASM anyway.

At trial, the People submitted copies of the workers' compensation claim forms filed by defendant. One of them claimed she was injured on July 12, 2013, while working at Goodwill. The other one claimed she was injured on July 11, 2013, while working at Sam's Club. Both forms claimed lower back injuries. A doctor who treated defendant under the ASM claim testified that when he first treated her, he asked if she had any other employers or had suffered any previous injuries. She did not provide him with any information concerning either. He specifically testified she never mentioned

that she suffered a work-related injury at Goodwill on July 12, 2013. He said that it would be important for him to know about other injuries to determine a better course of treatment. A nurse practitioner who treated defendant under the Goodwill claim testified that she was required to gather information regarding defendant's health background. Defendant indicated to her that she had no concurrent jobs and that she had never previously injured her lower back or had pain there before.

The insurer for Goodwill paid a total of \$111,723.06 on defendant's claim. The insurer for ASM paid a total of \$2,619.03.

#### DISCUSSION

Defendant appealed and, upon her request, this court appointed counsel to represent her. 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 and two potential arguable issues: (1) whether defendant's conviction for presenting a fraudulent insurance claim in count 3 was part of an indivisible course of conduct, such that the court should have stayed the sentence rather than imposing one year consecutive; and (2) whether the trial court abused its discretion in denying defendant probation. Counsel has also requested this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, which she has not done.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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FIELDS  
J.

We concur:

CODRINGTON  
Acting P. J.

SLOUGH  
J.