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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

WINSTON HAYLOCK,

Defendant and Appellant.

B279245

(Los Angeles County
Super. Ct. No. BA441862)

APPEAL from a judgment of the Superior Court of
Los Angeles County, George Gonzalez Lomeli, Judge. Affirmed.

Stanley Dale Radtke, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

After a jury convicted Winston Haylock on two firearm-related counts, but deadlocked on two aggravated assault counts, Haylock entered a negotiated plea to one assault count, which included an agreed-upon sentence of nine years eight months on all three counts. After obtaining a certificate of probable cause, Haylock appealed. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Haylock was charged in an information with seven felony counts and one misdemeanor count: Possession of a firearm by a felon, exhibiting a firearm in the presence of a police officer, exhibiting a concealable firearm in public (a misdemeanor), assault on a police officer (Charles Kumlander), assault on a police officer (Yudidt Martinez), assault with a firearm (Mijael Jardines), assault with a firearm (Andrea Casas) and shooting at an occupied motor vehicle. The information specially alleged Haylock had served seven prior prison terms for felonies within the meaning of Penal Code section 667.5, subdivision (b).¹ Haylock pleaded not guilty and denied the special allegations.

Prior to trial, Haylock moved for production of the personnel records of Officers Kumlander and Martinez pursuant to *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 (*Pitchess*) and Evidence Code sections 1043 and 1045 pertaining to allegations of dishonesty and false reporting. Following an in camera hearing, the court ordered discoverable information to be turned over to the defense.

According to the evidence presented at trial, Mijael Jardines was outside his home when he heard a gunshot and saw

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

Haylock standing next to a car that sped away. Haylock approached and pointed a gun at Jardines, who quickly got into his car with his wife, Andrea Casas, and their children. Jardines backed out of his driveway and began following Haylock, who was walking down the street. Casas telephoned the police. Haylock pointed his gun at Jardines and Casas.

Officers Kumlander and Martinez responded to the call of a shooting and came upon Haylock. He pointed a gun at the officers, before tossing it into a front yard and walking away. The officers detained Haylock after a brief struggle, during which Haylock yelled he had been carrying a gun, but had tossed it away. The officers recovered a loaded semiautomatic handgun. A live round was found partially ejected from the gun.

Haylock testified that he had taken the gun away from a friend to keep him from using it and intended to dispose of it, but when the police arrived, he threw it into a front yard. Haylock denied seeing Jardines and Casas or pointing the gun at them.

A jury convicted Haylock of possession of a firearm by a felon (§ 29800, subd. (a)(1)) and exhibiting a concealable firearm in public (§ 417, subd. (a)(2)(A)). The jury deadlocked on the two counts of assault with a semiautomatic firearm on Jardines and Casas (§ 245, subd. (b)); the court declared a mistrial on those counts. The jury acquitted Haylock on the remaining counts.

Haylock waived his right to a jury trial on the assault counts and pleaded no contest to assault with a semiautomatic firearm on Jardines. As part of the plea agreement, the trial court sentenced Haylock to a state prison term of nine years eight months, consisting of the upper term of nine years for aggravated assault, a consecutive term of eight months (one-third the two-year middle term) for possession of a firearm by a felon and a

concurrent term of one-year for exhibiting a concealable firearm in public. The remaining count of assault with a semiautomatic firearm on Casas and the prior prison term enhancements were dismissed as part of the negotiated plea. Haylock was awarded 544 days of presentence custody credits and ordered to pay statutory fines, fees and assessments.

Haylock filed a timely notice of appeal in which he checked the preprinted box stating, “This appeal challenges the validity of the plea or admission.” In his request for a certificate of probable cause, Haylock asserted that he “took the plea for 9 years 8 months with a strike and at 85% as advised by my lawyer Ruby Mejia. No medical reports or violence was taken or done from or to victims.”² The trial court granted the request without explanation.

DISCUSSION

We appointed counsel to represent Haylock on appeal. After examination of the record, counsel filed an opening brief in which no issues were raised. On May 3, 2017, we advised Haylock he had 30 days within which to submit any contentions or issues he wished us to consider. We have received no response.

Although Haylock obtained a certificate of probable cause following the entry of his no contest plea, section 1237.5, subdivision (a) limits the issues cognizable on appeal to those that raise “reasonable constitutional, jurisdictional, or other grounds going to the legality of the proceedings” resulting in the plea. (See also *People v. Maultsby* (2012) 53 Cal.4th 296, 302;

² No prior strike convictions were alleged in the information or admitted by Haylock as part of his negotiated plea.

People v. DeVaughn (1977) 18 Cal.3d 889, 895; *People v. Hobbs* (1994) 7 Cal.4th 948, 955.) “Obtaining a certificate of probable cause [however] does not make cognizable those issues which have been waived by a plea of guilty.” (*People v. Kaanehe* (1977) 19 Cal.3d 1, 9; accord, *People v. Maultsby*, *supra*, 53 Cal.4th at p. 302.) Because a guilty plea admits every element of the crime and constitutes a conviction, Haylock’s plea prohibits him from raising any issues going to the determination of his guilt or innocence. (*Maultsby*, *supra*, at p. 302.)³

We have examined the record with respect to potential issues relating to the legality of the plea hearing and concerning sentencing or post-plea matters that do not in substance challenge the validity of the plea itself and are satisfied Haylock’s appellate attorney has fully complied with the responsibilities of counsel and no arguable issue exists. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct.746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.)

We have reviewed the sealed transcript of the in camera hearing, which followed the granting of Haylock’s *Pitchess* motion and conclude the trial court did not abuse its discretion in ordering discovery. (See *People v. Mooc* (2001) 26 Cal.4th 1216, 1225.)

Haylock also made a pretrial motion for production of statements made by police officers in this case to an investigating team organized to gather and preserve evidence concerning the

³ Thus, assuming Haylock’s assertion in his certificate of probable cause is a challenge to the sufficiency of the evidence to support his aggravated assault conviction, which was based on his no contest plea, it is not cognizable on appeal.

incident. (*Vela v. Superior Court* (1989) 208 Cal.App.3d 141.) Although the trial court granted the motion, there is no reporter's transcript of the in camera inspection of the requested information. Because Haylock provided no transcript, we are unable to conduct the review he requested of the in camera proceedings.

DISPOSITION

The judgment is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.