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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

WYNELDA MILLER,

Defendant and Appellant.

B261558

(Los Angeles County
Super. Ct. No. TA132095)

THE COURT:*

Wynelda Miller (Miller) was convicted on one count of possession of a controlled substance with a firearm in violation of Health and Safety Code section 11370.1, subdivision (a) and sentenced to three years in state prison. She now appeals. Her appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441 (*Wende*) raising no issues for us to consider. On June 29, 2015, we notified Miller of her counsel's brief and gave her leave to file, within 30 days, a brief or letter setting forth any arguments supporting her appeal. She opted not to provide us with a letter or brief to consider. Upon review of counsel's *Wende* brief and the record, we conclude that there are no arguable issues, and this appeal lacks merit.

* BOREN, P. J., ASHMANN-GERST, J., CHAVEZ, J.

Miller was tried twice. The first trial ended in a mistrial after the jury was split 11 to 1 to convict.

At the second trial, the following evidence was presented:

On December 23, 2013, police officers from the Los Angeles Police Department executed a search warrant at an apartment. There were multiple adults inside, including several men and two women, Miller and Christian Majors (Majors). Three children were also present. Miller was standing two feet away from an inflatable bed in the living room. While the apartment was being cleared, an officer saw a baggie on the inflatable bed.

A second officer handcuffed and searched Miller after she exited the apartment. The officer found keys to the apartment, \$184 and a fully loaded revolver in Miller's pants pocket. The \$184 consisted of 44 \$1 bills, eight \$5 bills, two \$10 bills, and four \$20 bills. Miller did not appear to be under the influence of narcotics. The officer proceeded to search the apartment and discovered: five bindles of rock cocaine and approximately twenty \$1 bills on the inflatable mattress; approximately 100 rounds of ammunition for the revolver in Miller's pocket; a plate in the kitchen cabinet with two blades and a piece of rock cocaine; a baggie of methamphetamine; a digital scale with white residue; additional money, which brought the total money found in the search to \$379; and, finally, a pay and owe sheet with names and numbers, which is the type of document usually kept by drug dealers to keep track of customers and how much money they owe.

At trial, the parties stipulated that Jane Villegas of the Los Angeles Police Department Scientific Investigation Division analyzed the substances recovered in the search and found them to be cocaine base and methamphetamine. The officer who discovered the various items testified that drug dealers use digital scales to measure controlled substances. She also testified that, generally speaking, drug dealers are armed with a weapon in order to protect themselves, their product and the money they earn. In her experience, she has never seen users arm themselves. Miller's gun was not registered.

The officer found a document in the apartment with Miller's name on it and an address in Bakersfield.

Majors was the lessee.

The defense made an oral motion to dismiss pursuant to Penal Code section 1118.1. The motion was denied.

Miller testified on her own behalf. She said she stayed with Majors once every two to three months on weekends. According to Miller, she stayed with Majors over a weekend in December 2013 to attend a skating rink birthday party that Majors was throwing for her 10-year old son. Miller did not sleep on the inflatable bed in the living room. Rather, through that weekend, a friend named "Jeff" slept on the inflatable bed. Early Monday morning, she took him to the train station. It turned out that Jeff had left his phone in her car, and he called it. Miller answered. Jeff told her that he had left a gun and a backpack at the residence, and asked her to put the gun in her pocket when she returned to the residence in order to keep it away from the kids.

Miller testified that the "kids" moved the inflatable bed. Moments later, the police came in. She claimed that she did not own the drugs on the plate, the baggie with the drugs on the inflatable mattress, the ammunition or any of the money strewn about the apartment. The money in Miller's pocket was money she had collected from family members who wanted to give money to Majors' son for his birthday. Miller stated that other people had a key to the residence, including Majors' father and another friend.

Before the jury deliberated, the trial court instructed the jury on possession of a controlled substance in violation of Health and Safety Code section 11350 as a lesser included offense to the charged offense.

In our view, the evidence was sufficient to support Miller's conviction beyond a reasonable doubt. (*People v. Mosley* (2015) 60 Cal.4th 1044, 1055–1056.) We perceive no improprieties in the jury instructions or sentence.

We are satisfied that Miller’s counsel complied with her responsibilities. We conclude that Miller has received adequate and effective appellate review of the judgments entered against her by virtue of counsel’s compliance with the *Wende* procedure, and our review of the record. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 123–124.)

The judgment is affirmed.

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