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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

JACOB WESLEY AYDELOTTE,

Defendant and Appellant.

2d Crim. No. B267127
(Super. Ct. No. 2012034850)
(Ventura County)

Jacob Wesley Aydelotte was subject to postrelease community supervision (PRCS) when he was arrested. (Pen. Code, § 3451.) He had an informal probable cause hearing before a probation officer. Subsequently, the trial court found him in violation of PRCS. He contends, among other things, that the trial court erred because the PRCS revocation process violates his right to due process. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In 2013, Aydelotte was convicted of possession of a firearm by a felon or addict. (Pen. Code, § 29800, subd. (a)(1).) He was sentenced to 16 months in state prison.

In July 2014, Aydelotte was released on PRCS.

In October 2014, Aydelotte was arrested for violating his PRCS terms. At a probable cause hearing before Probation Officer Venessa Meza, he waived his right to

counsel, requested a court hearing, and agreed to a PRCS sanction of 140 days in custody.

On November 12, 2014, Aydelotte's counsel filed a motion to set aside the waiver. On December 9, 2014, the trial court granted the motion to vacate the waiver because the probation agency did not timely file its petition to revoke PRCS. The court also found that the probable cause hearing Meza conducted complied with due process standards.

On July 30, 2015, Aydelotte was arrested after committing numerous violations of his PRCS conditions.

On August 3, 2015, a probable cause hearing was held before Probation Officer Souza. Sousa found probable cause for finding Aydelotte violated his PRCS conditions.

In the probation officer's written report for revocation of PRCS, the probation agency stated Aydelotte was advised of his right to counsel, he denied the violation, "declined to accept" a "proposed sanction," and requested a court hearing.

On August 7, 2015, the Ventura County Probation Agency filed a petition to revoke PRCS.

On August 13, 2015, Aydelotte's counsel filed a motion to dismiss the petition. Aydelotte claimed the PRCS revocation process violated his due process rights, and he cited *Williams v. Superior Court* (2014) 230 Cal.App.4th 636 (*Williams*) and *Morrissey v. Brewer* (1972) 408 U.S. 472 (*Morrissey*). On August 13, 2015, the trial court held a hearing on that motion. The court denied the motion. It found no due process violation.

On August 13, 2015, Aydelotte appeared in court with his public defender and he submitted on the allegations in the petition alleging PRCS violations. The trial court found he violated PRCS and ordered him to serve 150 days in county jail with a total credit of 30 days.

DISCUSSION

Aydelotte contends the process used to revoke his PRCS violated his right to due process and that the PRCS hearing officers who conduct probable cause hearings are not neutral. We disagree.

The PRCS procedures here do not violate equal protection or due process rights. (*People v. Gutierrez* (2016) 245 Cal.App.4th 393, 402-404.) After his arrest for violating PRCS conditions, Aydelotte received a prompt probable cause hearing. (*Id.* at p. 402.) The PRCS hearing officers who decide probable cause are neutral decision makers. (*Morrissey, supra*, 408 U.S. at p. 485 ["someone not directly involved in the case"]; *Gutierrez*, at p. 402.) Parole procedures and PRCS procedures are not required to be identical. (*Gutierrez*, at pp. 403-404.) There are valid justifications for the different procedures. (*Ibid.*)

Aydelotte contends Souza's goal was to "obtain a waiver and to move appellant as quickly and as cheaply as possible to revocation and jail." But the record is inadequate to provide factual support for this claim. Aydelotte had an opportunity to present evidence on this at his August 13, 2015, court hearing. Instead, his counsel simply made a short oral argument. The trial court found the probable cause hearing complied with due process standards. Aydelotte did not present evidence in the trial court to show that the hearing officers are not neutral, that their findings are incorrect or unreliable, that the procedure was unfair, or that he was not afforded a prompt probable cause hearing after his arrest. He consequently is not in a position to challenge the trial court's finding that the probable cause hearings comply with *Morrissey* standards.

Aydelotte contends he had no opportunity to consult with counsel before his August 3, 2015, probable cause hearing. But on July 31, 2015, one day after his arrest, he was arraigned in court on his PRCS supervision case and he was represented by counsel.

Moreover, the denial of a *Morrissey*-compliant probable cause hearing does not warrant reversal unless it results in prejudice at the revocation hearing. (*In re La Croix* (1974) 12 Cal.3d 146, 154-155.) Aydelotte makes no showing that a due process

defect prejudiced him or affected the outcome of the PRCS revocation hearing. (*In re Moore* (1975) 45 Cal.App.3d 285, 294; see also *In re Winn* (1975) 13 Cal.3d 694, 698 [defendant as the burden of showing prejudice].) The trial court revoked Aydelotte's PRCS after he submitted on the violations found by the PRCS hearing officer and mentioned in the petition to revoke PRCS. He has not shown grounds for reversal. (*Moore*, at p. 294; *Winn*, at pp. 697-698; *People v. Woodall* (2013) 216 Cal.App.4th 1221, 1238.) Aydelotte has served the custodial sanction. "[T]here is nothing for us to remedy" (*Spencer v. Kemna* (1998) 523 U.S. 1, 18.) We have reviewed his remaining contentions and conclude he has not shown error.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

PERREN, J.

TANGEMAN, J.

Donald D. Coleman, Judge
Superior Court County of Ventura

Jolene Larimore, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Shawn McGahey Webb, Supervising Deputy Attorney General, Nathan Guttman, Deputy Attorney General, for Plaintiff and Respondent.