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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

ABDUR SHAREEF,

Defendant and Appellant.

B275785

(Los Angeles County  
Super. Ct. No. 6PH02951)

APPEAL from the order of the Superior Court of Los Angeles County. Jacqueline H. Lewis, Judge. Affirmed.

Heather E. Shallenberger, 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, Assistant Attorney General, Paul M. Roadarmel, Jr., and Rene Judkiewicz, Deputy Attorneys General, for Plaintiff and Respondent.

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Defendant and appellant Abdur Shareef appeals from the trial court's order of May 31, 2016 finding he had violated two conditions of his parole, revoking and restoring parole on the same terms and conditions, and ordering defendant to serve 180 days in county jail.

We affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Following a conviction for first degree burglary, defendant was sentenced to two years in state prison and released on parole on March 1, 2016. The terms of his release included the conditions that defendant shall not contact or associate with anyone he knows or reasonably should know to be a member or associate of a gang (condition No. 1), and defendant shall not own, use or have access to any type of firearm or ammunition (condition No. 5).

On the afternoon of April 19, 2016, Officer Michael Barragan of the Los Angeles Police Department Gang Enforcement Detail was on patrol with his partner near the intersection of Figueroa Street and Manchester Avenue. He saw a Cadillac with tinted windows parked in front of a business, blocking several other vehicles. A man was standing near the rear driver's side passenger door of the Cadillac with his hand on the door as if he was about to get into the back seat. Officer Barragan "immediately recognized" the man as Kenyond Simuel, a documented member of the Hoover gang, with the moniker "Grayhead." Officer Barragan was personally familiar with Mr. Simuel.

Officer Barragan saw that Mr. Simuel appeared to get "immediately" nervous upon making eye contact with Officer Barragan, and proceeded to turn away from the Cadillac and

walk away. Officer Barragan activated the lights on the patrol car and he and his partner got out. His partner walked over to Mr. Simuel and detained him, while Officer Barragan walked up to the Cadillac.

The man sitting in the driver's seat rolled down the windows. Officer Barragan did not recognize the driver. Defendant was seated in the front passenger seat. Officer Barragan was familiar with defendant from prior contacts. A strong odor of marijuana escaped from the Cadillac as the windows were rolled down. Officer Barragan knew that defendant was a member of the Hoover gang, and later learned that the driver was also a member.

The driver gave Officer Barragan permission to search the car. The driver and defendant got out of the car as they were directed and Officer Barragan noted that the driver was wearing a GPS monitor around his ankle. When asked, the driver said he was out on bail. Officer Barragan found a vial of marijuana in the front center console, and noticed a "bulky" area beneath the carpeting on the floor of the front passenger seat. He lifted up the loose carpeting and found a handgun wrapped in a cloth. The firearm was loaded. Defendant was taken into custody.

A petition to revoke defendant's parole was filed April 25, 2016. At the probable cause hearing on May 3, 2016, the court heard testimony and found probable cause to conclude defendant had violated the terms of his parole. The court ordered that defendant's parole was to remain preliminarily revoked, he was to remain remanded pending a formal revocation hearing, and set the contested revocation hearing for May 31, 2016.

At the contested revocation hearing, Officer Barragan testified to the facts and circumstances surrounding defendant's

arrest on April 19, and defendant's parole officer attested to the conditions of defendant's parole and his knowledge and acceptance of those terms when he was released on supervised parole. At the conclusion of the hearing, the court found by a preponderance of the evidence that defendant had violated condition Nos. 1 and 5 of his parole. The court revoked and restored parole on the same terms and conditions, and ordered defendant to serve 180 days in county jail, less 86 days of custody credits.

This appeal followed.

### DISCUSSION

At a parole revocation hearing, the prosecution is required to demonstrate, by a preponderance of the evidence, that a parole violation has occurred. (Pen. Code, § 3044, subd. (a)(5); see also *People v. Rodriguez* (1990) 51 Cal.3d 437, 446-447.) Because the trial court's decision to revoke parole is largely discretionary, we review a revocation order for abuse of discretion, and review the court's factual findings for substantial evidence. (*People v. Butcher* (2016) 247 Cal.App.4th 310, 318 [discussing standard in the context of a probation revocation hearing]; see also *Rodriguez*, at pp. 441-447.)

Defendant contends the court acted arbitrarily in concluding defendant had violated parole. As to condition No. 1, defendant argues the evidence is insufficient because there was no admissible evidence that either the driver of the Cadillac or Mr. Simuel were members of a gang. Any such evidence was based on inadmissible hearsay in light of the Supreme Court's recent holding in *People v. Sanchez* (2016) 63 Cal.4th 665 (*Sanchez*). As to condition No. 5, defendant argues the evidence is insufficient because defendant was merely seated in the front

passenger seat where the hidden firearm was located. He did not own the car, nor was there any direct evidence he knew of the existence of the firearm. We are not persuaded.

*Sanchez* concerned the admissibility of testimony by a gang expert in a criminal trial. The Supreme Court concluded that a gang expert's testimony may properly rest on hearsay relative to the expert's background knowledge and expertise, but an expert may not "relate as true case-specific facts asserted in hearsay statements, unless they are independently proven by competent evidence or are covered by a hearsay exception." (*Sanchez, supra*, 63 Cal.4th at p. 686.)

It is well settled that "the revocation of parole is not part of a criminal prosecution and thus the full panoply of rights due a defendant in such a proceeding does not apply to parole revocations." (*Morrissey v. Brewer* (1972) 408 U.S. 471, 480.) Federal due process nonetheless requires some minimum procedural requirements be followed at a revocation hearing, including a defendant's "right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation)." (*Id.* at p. 489; accord, *People v. Arreola* (1994) 7 Cal.4th 1144, 1152-1153.)

We need not resolve whether *Sanchez* applies at a parole revocation hearing. Even if we assume for the sake of argument that some of Officer Barragan's testimony was based on hearsay learned while working as a gang enforcement officer, the record contains sufficient nonhearsay evidence in support of the court's findings.

Officer Barragan attested that he was personally familiar with both defendant and Mr. Simuel as members of the same clique of the Hoover gang. Defendant incorrectly characterizes

Officer Barragan's testimony as "admitting" he based all of his knowledge on the reports of others. He specifically testified he was personally familiar with both Mr. Simuel and defendant.<sup>1</sup> The testimony defendant relies on was simply Officer Barragan's explanation of his general duties as a gang enforcement officer, taking reports from witnesses and the like. Looking at the entirety of Officer Barragan's testimony about the observations of the April 19 encounter with defendant, Mr. Simuel and the driver of the car, the reasonable inference is that defendant was knowingly engaging in contact with at least one member of his own gang.

The record also supports the court's finding as to the violation of condition No. 5 regarding access to firearms. Defendant was found seated in a car with a loaded firearm tucked into the carpeting at his feet. Officer Barragan testified the carpeting was disturbed and there was an obviously "bulky" item underneath it; an item that would not reasonably have escaped observation by one seated in the front passenger seat. The court was entitled to conclude the reasonable inference was that defendant was aware of his immediate access to the loaded weapon in violation of the terms of his parole.

Defendant has failed to show any abuse of discretion by the court in revoking his parole.

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<sup>1</sup> This testimony was consistent with Officer Barragan's testimony at the probable cause hearing in which he said he knew both Mr. Simuel and defendant from prior encounters working on the gang enforcement detail.

**DISPOSITION**

The trial court's order of May 31, 2016, is affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

RUBIN, J.