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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.

MARK ANTHONY HERNANDEZ,

Defendant and Appellant.

2d Crim. No. B271419
(Super. Ct. No. 16PT-00169)
(San Luis Obispo County)

Mark Anthony Hernandez appeals an order revoking his parole and sentencing him to county jail. We conclude substantial evidence supports the trial court's findings that he willfully violated his parole conditions. We affirm.

FACTS

In 2013, Hernandez was convicted of failing to register as a sex offender. (Pen. Code, § 290.018.)

Gilberto Molinar was Hernandez's parole officer. He testified that Hernandez was required to wear a GPS ankle monitor as a parole condition. When Hernandez was released from prison, a "sign language interpreter" advised him that he

had to charge the GPS device “one hour in the morning” and “12 hours later” to keep the “device working.” Molinar testified that because Hernandez’s “living situation is transient,” Hernandez was permitted to charge the device in the morning and afternoon at the parole office.

Molinar advised Hernandez that on weekends he could charge the device at such places as Starbucks, Whole Foods, and Internet cafes. Hernandez’s GPS device “went dead” during the weekend from Sunday, March 6, 2016, at 4:49 p.m., to Monday, March 7, 2016, at 8:27 a.m. Molinar said Hernandez also violated his parole conditions by not going to his March 4th mental health appointment.

Hernandez testified that his mental health appointment was not for March 4; it was for March 26. He is homeless. He said “[he] looked for a place to plug in on the street. Looked everywhere, but it was really hard to find anywhere to plug in” to charge the device. He did not have “access to electricity.” Hernandez said the last time he charged the device was on March 5. He later testified that he charged it on March 6.

The trial court found Hernandez willfully violated his parole conditions because he did not charge the GPS device and did not go to his mental health appointment. The court remarked that this was the second time Hernandez violated his parole condition by not charging the GPS device. The court sentenced him to serve 180 days in county jail.

DISCUSSION

Violation of Parole Conditions

Hernandez contends there is no substantial evidence to support the trial court’s findings that he willfully violated his parole conditions. We disagree.

In deciding the sufficiency of the evidence, we draw all reasonable inferences in support of the judgment. We do not decide the credibility of the witnesses, weigh the evidence or resolve evidentiary conflicts. (*People v. Young* (2005) 34 Cal.4th 1149, 1181; *People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) To revoke parole, the court must have evidence that the parolee's violations of his or her parole conditions were willful. (*People v. Galvan* (2007) 155 Cal.App.4th 978, 982.)

Here there was evidence from which the trial court could reasonably infer that Hernandez willfully violated the requirement that he attend his mental health appointment. Molinar testified Hernandez missed his March 4, 2016, mental health appointment. He met with Hernandez the day before and reminded him he had to go to that appointment, a required parole condition. Molinar also said a mental health staff worker told him that she gave Hernandez "an appointment card and reminded him of the appointment."

Hernandez testified the appointment date was March 26. But the trial court resolved the conflict in the evidence against Hernandez. We do not weigh the evidence, decide credibility or resolve evidentiary conflicts.

Hernandez contends the evidence shows he did not willfully fail to charge the battery in his GPS device. He claims: 1) the "device went dead from 4:49 p.m. on Sunday until 8:27 a.m. on Monday, a period of about 15-and-a-half hours"; and 2) his testimony shows that he was "unable to find any" place to "charge the device" on the weekend.

But Molinar testified that when he discovered the GPS battery was "dead," he believed he sent a text message to Hernandez to "charge device," which was Molinar's usual

practice, and Hernandez could have responded that he did not “have electricity.” Molinar previously advised Hernandez that on weekends Hernandez could charge his device at such places as Starbucks, Whole Foods or Internet cafes. He wrote a note for Hernandez advising him that “it’s very important for him to keep the device charged, hour in the morning and an hour in the evening.” Molinar said Hernandez had previously violated his parole conditions in November 2015 when he let the “GPS battery go dead.” Hernandez spent 180 days in jail for that prior parole violation.

Moreover, Hernandez gave conflicting testimony. He initially said that the last time he charged the device was on March 5. He later said he charged it on March 6. Hernandez has not shown why the trial court could not reasonably infer that his testimony about not being able to charge the device was not credible.

DISPOSITION

The order is affirmed.

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GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Michael L. Duffy, Judge

Superior Court County of San Luis Obispo

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