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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. MARTIN ARANDA, Defendant and Appellant.	2d Crim. No. B267079 (Super. Ct. No. 2011013200) (Ventura County)

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

FACTUAL AND PROCEDURAL BACKGROUND

In 2011, Aranda pled guilty to unlawfully taking a vehicle (Veh. Code, § 10851, subd. (a)) and eluding a pursuing peace officer (*id.*, § 2800.4). He was sentenced to two years in state prison.

On April 17, 2012, Aranda was released on PRCS. On July 10, 2015, Aranda was arrested for violating his PRCS terms.

On July 13, 2015, at a probable cause hearing, Probation Officer Venessa Meza found that Aranda violated his PRCS conditions. Two days later, the Ventura

County Probation Agency filed a petition to revoke PRCS and scheduled a hearing date for July 30, 2015.

On July 24, 2015, Aranda filed a motion to dismiss the petition, citing *Williams v. Superior Court* (2014) 230 Cal.App.4th 636 (*Williams*) and *Morrissey v. Brewer* (1972) 408 U.S. 471 (*Morrissey*). He claimed the PRCS revocation process violated his due process rights.

On July 30, 2015, the trial court found that 1) Meza's probable cause hearing complied with *Morrissey*, 2) the parole procedures set forth in *Williams* did not apply to PRCS, and 3) there was no violation of Aranda's due process rights.

At the subsequent PRCS revocation hearing, Aranda admitted the PRCS violations. The trial court ordered Aranda to serve 180 days in the county jail with a credit of 82 days.

DISCUSSION

Aranda contends, among other things, that 1) the revocation of PRCS violated his right to due process; 2) his probable cause hearing did not comply with *Morrissey* standards; 3) the PRCS process undercut "the will of the electorate when it passed Proposition 9"; 4) the probation officer was not neutral and conducted "an ex-parte" interview, not a "true fact-finding" process; and 5) he was entitled to the procedures provided to parolees in *Williams*, *supra*, 230 Cal.App.4th 636.

The PRCS procedures here do not violate Aranda's equal protection or due process rights. (*People v. Gutierrez* (2016) 245 Cal.App.4th 393, 402-404; see also *People v. Byron* (2016) 246 Cal.App.4th 1009, 1014-1017.) After his arrest for violating PRCS conditions, Aranda received a prompt probable cause hearing. (*Gutierrez*, 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.) PRCS procedures and Proposition 9 parole procedures involve different types of offenders and different procedures. (*Gutierrez*, at pp. 403-404.) There are valid justifications for the different procedures. (*Ibid.*) Consequently, "there is no requirement that the PRCS revocations and parole revocations use the identical

procedure or timeline." (*Byron*, at p. 1017.) Aranda relies on *Williams*. "*Williams* is not a PRCS case and did not consider the due process requirements for a PRCS revocation." (*Byron*, at p. 1016.)

Moreover, Aranda has not produced an adequate record on appeal. Therefore, he is not in a position to challenge the trial court's finding that the probable cause hearings comply with *Morrissey* standards.

Aranda suggests that the record does not show that a probable cause hearing occurred or that there was a "determination" that he violated PRCS conditions. But the "probation officer's written report for revocation" establishes that "an administrative hearing was held," and Meza determined there was probable cause for the seven PRCS violations. Aranda subsequently admitted his PRCS violations at the revocation hearing. Aranda's probation officer who supervised his PRCS compliance was Lisa Byrne, not Meza.

Aranda contends that he was not advised of his rights before or during the probable cause hearing and claims, assuming there was a probable cause hearing, that he did not receive the "Postrelease Community Supervision Advisement of Rights" form, which is a standard advisement for PRCS participants. He also claims, among other things, that he was not advised of his right to a court revocation hearing. But he did not testify or make a record in the trial court to preserve these factual claims. His trial counsel did not make an offer of proof or raise these issues at the hearing on his motion to dismiss the petition. (*People v. Vines* (2011) 51 Cal.4th 830, 867 [claims on appeal are forfeited where they are not initially raised in the trial court].)

The record contains a five-page PRCS "Postrelease Terms and Conditions" form, which Aranda signed in April 2012. It sets forth the PRCS conditions he was subject to and the consequences for failing to comply with them. As the People note, the probation officer's written report for revocation lists the seven PRCS violations with a factual summary. It shows that Aranda was "informed of the . . . violations," he knew about his right to make a statement, but he "declined to provide" one, he "refused the waiver offer" at the probable cause hearing, and he "*requested a formal Court hearing*."

(Italics added.) Consequently, he was aware of his right to challenge the petition to revoke PRCS in court. He was also advised of his "right to counsel" and he requested counsel. (See *People v. Byron*, *supra*, 246 Cal.App.4th at p. 1017.) He did not make any incriminating admissions at the probable cause hearing or waive his right to contest any alleged PRCS violation at the revocation hearing. As the People note, "a written report memorializing the hearing" and the facts supporting the violations was filed with the court.

"The requirement for a formal arraignment in the superior court within 10 days of arrest, as discussed in *Williams*, does not apply to PRCS revocations." (*People v. Byron, supra*, 246 Cal.App.4th at p. 1017.) But, even so, Aranda had an arraignment on his "Post Release Offender Supervision case" on July 13, 2015, where he was represented by counsel. The trial court said there would be "new additional charges alleging a violation of post-release supervision." The prosecutor said these would be determined by the probation agency. Aranda's counsel raised no objection to following this procedure. This occurred on the same day as his probable cause hearing before Meza.

"Nowhere in the PRCS statutory revocation scheme is there a requirement for the appointment of counsel at the initial [probable cause] hearing." (*People v. Byron, supra*, 246 Cal.App.4th at p. 1016, fn. 4.) Here Aranda was represented by counsel at three court hearings: 1) at the arraignment (which occurred on the same day as his probable cause hearing), 2) at the July 30th court hearing on his motion to dismiss, and 3) at his revocation hearing. "The hearing on the motion to dismiss was tantamount to a second probable cause hearing." (*Id.* at p. 1017.) The probable cause hearing before Meza was "the functional equivalent of an arraignment and a probable cause ruling." (*Ibid.*) "Assuming, arguendo, that *Williams* applies to PRCS revocation hearings, [Aranda] received functionally equivalent protections and any deviation in the timing or substance of the hearings was harmless beyond a reasonable doubt." (*Ibid.*)

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.) Aranda 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 has the burden of showing prejudice].) Aranda was represented by counsel at the revocation hearing and he admitted the PRCS violations. He 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 grounds for reversal.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

PERREN, J.

TANGEMAN, J.

Patricia M. Murphy, Judge

Superior Court County of Ventura

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