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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.

KEHENDE M. LANG,

Defendant and Appellant.

B237179

(Los Angeles County Super. Ct.
Nos. SA076386 & LA050947)

APPEAL from a judgment of the Superior Court of Los Angeles County. Antonio Barreto, Jr., Judge. Affirmed.

Richard L. Fitzer, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Appellant appeals from his conviction of possession of marijuana for sale. He pled no contest to this charge after the trial court denied his motion to suppress evidence of his detention and search. Appellant does not raise any arguable issues. Following our independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441 (*Wende*), we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Appellant was charged with possession of marijuana for sale (count 1) and possession of a firearm by a felon (count 2). The People alleged appellant was armed with a firearm (Pen. Code, § 12022)¹ and that he had suffered five prior prison terms (§ 667.5, subd. (b)).

Appellant filed a motion to suppress, contending the evidence against him was obtained as a result of an unlawful traffic stop and the subsequent search. The following evidence was presented at the suppression hearing:

At 1:00 am on December 8, 2010, Hawthorne Police Officers Rubio and Port saw appellant speeding and then make a right turn onto El Segundo Boulevard through a red traffic light without stopping at the signal. A dash video camera in the squad car was automatically triggered, recording petitioner's vehicle as he turned right on the red light and the officers' pursuit.

They followed appellant as he drove his vehicle into the driveway of his apartment building and parked at the opposite end of the parking garage. Appellant did not park in a marked stall and therefore blocked another parked vehicle. He threw the door open, got out, shut the door behind him, and quickly ran toward the apartment complex with his left arm against his waistband. These events were also recorded by the dash video camera.²

¹ Further code references are to the Penal Code, unless otherwise indicated.

² The camera not only recorded events in front of the vehicle, but also to the right, left, and rear of the vehicle.

Because the officers lost him inside the complex, they contained the building and were told by a witness that appellant had entered unit No. 26. The officers then returned to appellant's parked vehicle, finding he had left the engine running and the headlights on. The officers concluded appellant had abandoned the vehicle and prepared to impound it by conducting a search. Officer Rubio found a medical marijuana document with appellant's name. After calling dispatch, Officer Rubio found out appellant lived in unit No. 26, that his driver's license had been suspended, and that he was on probation for narcotics.

Another officer on the scene used a bullhorn to call out to appellant to come out of his apartment. Appellant did so and confirmed he was on probation. The officers then searched the apartment and found several bricks of marijuana inside a safe, a .357 magnum revolver, and digital scale.

Appellant testified the light was green when he turned right onto El Segundo Boulevard. He admitted running from the police because he was afraid. Appellant also stated the vehicle was validly parked because it was not blocking others, and that he did not leave his engine running with the lights on. Appellant explained he turned the engine off and took the keys with him because the keys he needed to unlock the complex gate and enter his apartment were on the same key ring. He said the lights turned off automatically a few minutes after the engine was turned off. Appellant stated he was in his apartment about 30 to 45 minutes before police called for him to come outside, and that an officer took his car keys at that time.

On rebuttal, Officer Port testified he had been to the apartment complex about 30 times and knew the gate is never locked. He also stated he did not see any officer remove appellant's keys from the key chain.

The trial court reviewed the recording of the dash video camera and based most of its findings on that recording. The court found there was insufficient evidence appellant was speeding. But the court did find the video recording clearly showed appellant turning right on a red light without stopping. Because he committed a traffic violation, the court concluded the officers' traffic stop was justified.

The trial court also found (1) appellant parked his vehicle in front of other stalls, thereby blocking at least one other vehicle; (2) that appellant left the vehicle lights on (headlights and tail lights) when he rushed out of the vehicle and that lights did not turn off during the full 18 minute minutes of the recording; (3) that appellant ran out of the vehicle holding his left hand on his waistband, trying to flee from the officers; and (4) the officers entered and searched the unlocked vehicle during the 18 minutes of the recording, before appellant came out of his apartment. The court concluded appellant had abandoned his vehicle and therefore, the officers could search it prior to being impounded.

Finally, the trial court found appellant voluntarily came out of his apartment in response to the officers' request, and that he was on probation and under a search condition. Therefore, the court concluded the search of appellant's apartment was authorized. As a result of its findings, the court denied appellant's motion to suppress.

Appellant then entered a negotiated plea by which he pled no contest to count 1 in exchange for an upper-term sentence of three years in prison and dismissal of the remaining charges and allegations. The court also imposed a concurrent term of 16 months for appellant's probation violation in case No. SA076386. This appeal followed, challenging the court's ruling on the motion to suppress.

DISCUSSION

We appointed appellate counsel, who filed a brief stating he could not find any arguable issues for appeal. (*Wende, supra*, 25 Cal.3d at p. 441.) We invited appellant to submit a letter or brief raising any issues he wished for us to consider. He filed a letter insisting he did not turn right when the traffic light was green and therefore the traffic stop was unjustified. He specifically contends the dash video camera recording of the driver's side view provides proof he turned right while the light was green, not red.

We have reviewed the record, including the dash video camera recording, paying particular attention to appellant's claim. We find no arguable issues for appeal. Indeed, substantial evidence supports each of the trial court's findings. The traffic stop was proper because appellant violated the Vehicle Code by turning right on a red traffic light

without coming to a complete stop. (*People v. Brown* (1998) 62 Cal.App.4th 493, 496 [a police officer may legally stop a motorist he suspects of violating traffic laws]; Veh. Code, § 21453.) The search of the vehicle incident to impoundment was also proper because appellant abandoned his vehicle. (*South Dakota v. Opperman* (1976) 428 U.S. 364, 369 [“The authority of police to seize and remove from the streets vehicles impeding traffic or threatening public safety and convenience is beyond challenge.”]; Veh. Code, § 22523.) And, the search of the apartment was valid because appellant exited voluntarily and was subject to a probation search condition. (*People v. Ramos* (2004) 34 Cal.4th 494, 506 [a probationer subject to a search condition has no reasonable expectation of Fourth Amendment protection].) Accordingly, the trial court correctly granted the motion to suppress.

Appellant’s argument that the dash video camera recording of the driver’s side view provides proof he turned right while the traffic light was green lacks merit. The recording supports the trial court’s finding that appellant turned right without stopping while the traffic light was red, and that the light was green when the officers turned right to follow appellant in their vehicle.

DISPOSITION

The judgment is affirmed.

FLIER, J.

WE CONCUR:

BIGELOW, P. J.

RUBIN, J.