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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.

HAO T. HUYNH,

Defendant and Appellant.

B253252

(Los Angeles County  
Super. Ct. No. GA089958)

APPEAL from a judgment of the Superior Court of Los Angeles County. Stanley Blumenfeld, Judge. Affirmed.

Eileen M. Rice, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Defendant Hao T. Huynh appeals from the judgment entered following a jury trial that resulted in his conviction of possession of a controlled substance (methamphetamine). Based on our independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441 (*Wende*), we affirm the conviction.

### **FACTUAL AND PROCEDURAL HISTORY**

Viewed in accordance with the usual rules on appeal (*People v. Zamudio* (2008) 43 Cal.4th 327, 357-358 (*Zamudio*)), the evidence established that in June 2013, the Kings Lodge Motel in Monterey Park was a well known focal point of criminal activity, including narcotics sales. Neighbors frequently called to complain. At about 8:00 a.m. on Tuesday, June 4, 2013, officer William Leon of the Monterey Park Police Department was in uniform and driving a marked police car when he stopped at the motel to perform a “business check.” A “business check” includes walking through the business premises looking for anything “suspicious;” in other words, anything that suggests criminal activity. For example, stolen cars in the parking lot. Leon was on the second floor walkway when his attention was drawn to defendant, who was walking towards Leon. Leon observed defendant put a key in the door of a room and try to unlock it, but when door did not open, defendant moved to Room No. 215, which he successfully unlocked. Leon approached defendant and they exchanged “Good mornings.” Defendant told Leon that he had rented Room No. 215 at about 2:00 a.m. Defendant also said there were other people in the room. After responding in the negative when Leon asked if there were any narcotics in the room, defendant consented to Leon searching the room. Upon entering Room No. 215, Leon observed a nightstand between two beds; the bed on the left was unmade and the nightstand drawer was partially open. Wedged in between the open nightstand drawer and the side panel of the nightstand, on the side closer to the unmade bed, Leon found a plastic wrapper containing .02 grams of methamphetamine, including

the plastic wrap. In Leon's experience, this was a useable amount of methamphetamine.<sup>1</sup> When Leon asked defendant what the plastic wrapped item was, defendant responded, "Give me a chance to correct myself." Leon searched defendant, but did not find a methamphetamine pipe on defendant's person. While defendant remained in Room No. 215 with another officer, Leon went to the motel lobby. From the hotel clerk, Leon obtained a hotel registration card bearing defendant's name (People's Exh. 9). After Leon returned to Room No. 215, defendant was arrested and transferred to the Monterey Park jail. As part of the booking process, defendant provided signatures on a property receipt. Defendant told Leon that he lived in Gardena. Running the California Driver's License number on defendant's motel registration card through the DMV data base, confirmed that defendant's registered address was in Gardena as of September 2012.

Kao Huaw Chang once owned the Kings Lodge Motel, but now her son owns it. Chang continues to work there in various capacities, including checking in guests. Chang identified People's Exhibit No. 9 as a card the receptionist is supposed to fill out for each guest upon check-in; sometimes the guests do it themselves. Chang worked from about 2:30 p.m. until 8:30 on June 3, 2013 (the day before defendant was arrested). Chang knew defendant, who had been a motel guest on three or four prior occasions, but she could not recall checking him in on June 3, 2013. The writing on defendant's check-in card (People's Exh. 9) was not Chang's writing. When the maids clean the rooms between guests, they are instructed to clean under the beds and open drawers to make sure they are clean, but the maids do not always do it. If anything illegal is found in the room, they throw it away.

Defendant was charged with possession of methamphetamine. (Health & Saf. Code, § 11377, subd. (a).) Prior convictions were alleged pursuant to the Three Strikes law (Pen. Code, § 1170.12, subds. (a)-(d), § 667, subds. (b)-(i)), prior prison terms were alleged pursuant to Penal Code section 667.5, subdivision (b). A jury found defendant

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<sup>1</sup> The parties stipulated that a Sheriff's Department criminalist analyzed the contents of the plastic wrap and determined it was .04 grams of a crystalline solid substance containing methamphetamine.

guilty of the substantive charge. Following a bifurcated trial, the trial court found true the prior conviction and prison term allegations. Defendant's motion to dismiss the Three Strikes prior was denied.

Defendant was sentenced to a total of four years in prison, comprised of the two year mid-term doubled pursuant to the Three Strikes law; the Penal Code section 667.5, subdivision (b) enhancements were stricken.. Defendant timely appealed.

We appointed separate counsel to represent defendant on appeal. After examination of the record, appointed counsel filed an opening brief which contained an acknowledgment that she had been unable to find any arguable issues and requesting that we independently review the record pursuant to *Wende, supra*, 25 Cal.3d 436. We advised defendant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. Defendant did not respond.

We have examined the entire record and are satisfied that appointed counsel fully complied with her responsibilities and that no arguable issues exist. (*Wende, supra*, 25 Cal.3d at p. 441.)

### **DISPOSITION**

The judgment is affirmed.

RUBIN, ACTING P. J.

WE CONCUR:

FLIER, J.

GRIMES, J.