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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

NORMAN MAIDEN, JR.,

Defendant and Appellant.

B288767

(Los Angeles County  
Super. Ct. No. BA449324)

APPEAL from a judgment of the Superior Court of Los Angeles County, Mildred Escobedo, Judge. Affirmed.

Steven A. Brody, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In May 2017, the Los Angeles County District Attorney charged defendant Norman Maiden, Jr. (defendant) in a single-count information with a violation of Health and Safety Code section 11370.1(a), possession of a controlled substance while armed with a firearm.<sup>1</sup> The charges were predicated on evidence that, on August 7, 2016, police pulled defendant over while driving a tow truck and subsequently recovered cocaine after a search of defendant's person, as well as marijuana and a firearm after a search of the truck.

Defense counsel moved to suppress the cocaine and the gun on the grounds that the detention was unduly prolonged and there was no probable cause for the search of the vehicle. The trial court denied the motion, finding: the detention was not unduly prolonged under *Rodriguez v. United States* (2015) 135 S.Ct. 1609, the cocaine was recovered pursuant to a search incident to arrest, and the officer had probable cause to search the interior of the tow truck.

Following the denial of his suppression motion, defendant pled no contest to the section 11370.1(a) charge pursuant to a plea agreement with the People. He was sentenced in accordance with that agreement to four years in prison, with execution of that sentence suspended, and three years' probation.

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<sup>1</sup> The information further alleged defendant had previously sustained a Penal Code section 245(a)(2) conviction, assault with a firearm, a serious and/or violent felony within the meaning of Penal Code sections 667(b)-(i) and 1170.12(a)-(e). The trial court dismissed the prior strike conviction pursuant to Penal Code section 1385.

One of the conditions of defendant's probation was that he not use controlled substances without a valid prescription. When defendant's probation officer told him this meant he could not use medical marijuana, defense counsel returned to court to request the condition be clarified to expressly permit defendant's use of medical marijuana. The trial court denied his request.

Defendant thereafter petitioned for a writ of mandate directing the trial court to vacate what he characterized as a modification of his probation. We issued an alternative writ directing the trial court to vacate its order and consider whether changed circumstances warranted modification of defendant's probation, or to show cause why a peremptory writ should not issue. The trial court elected to modify its order to allow defendant to use or possess medical marijuana with a valid prescription.

Shortly before filing his petition for writ of mandate, defendant filed a notice of appeal from the probation conditions imposed. This court appointed counsel to represent defendant. After examining the record, defense counsel filed an opening brief raising no issues. On July 9, 2018, this court advised defendant he had 30 days to personally submit any contentions or issues he desired us to consider. We received no response.

We have examined the appellate record and are satisfied defendant's attorney has complied with the responsibilities of counsel and no arguable issue exists. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-82; *People v. Kelly* (2006) 40 Cal.4th 106, 122-24; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

DISPOSITION

The judgment is affirmed.

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BAKER, Acting P. J.

We concur:

MOOR, J.

JASKOL, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.