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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES ARTHUR MOOREHEAD,

Defendant and Appellant.

B269984

(Super. Ct. L.A. County  
No. MA065954)

APPEAL from a judgment of the Superior Court of Los Angeles County, Lisa Mangay Chung, Judge. Affirmed.

Susan Morrow Maxwell, under appointment by the Court of Appeal, for Defendant and Appellant.

Kathleen A. Kenealy, Acting Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Victoria B. Wilson, Supervising Deputy Attorney General, and Paul S. Thies, Deputy Attorney General, for Plaintiff and Respondent.

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James Moorehead appeals from the judgment of conviction after his plea of guilty to one count of possession of a controlled substance and admission of one prior strike. Moorehead challenges the denial of his motion to suppress evidence seized during a warrantless search of his vehicle. We hold that the search of a zippered bag found in the car trunk during the impound inventory was lawful, as was the search of text messages on Moorehead's cellular telephone. We therefore affirm.

### **BACKGROUND**

In an amended information, the Los Angeles County District Attorney charged Moorehead with one count of possession of a controlled substance for sale (Health & Saf. Code, § 11351; count 1) and one count of driving with a suspended license (Veh. Code, § 14601.2, subd. (a); count 2). It was further alleged as to count 1 that Moorehead had two prior convictions under Health and Safety Code sections 11351.5 and 11378.5 (Health & Saf. Code, § 11370.2, subd. (a)), had served four prior prison terms (Pen. Code, § 667.5, subd. (b)), and had two prior strike convictions (Pen. Code, §§ 667, subds. (b)–(j), 1170.12, subd. (b)).

The jury convicted Moorehead on count 2 but deadlocked on count 1, and the court declared a mistrial on the charge of possession of a controlled substance for sale. Subsequently, Moorehead withdrew his plea of not guilty, pleaded no contest to count 1, and admitted one prior strike conviction. The trial court sentenced Moorehead to an aggregate term of four years in state prison in accordance with the terms of the negotiated plea.

#### ***The Motion to Suppress***

While the jury was still deliberating, the trial court heard and denied Moorehead's motion to suppress (1) the pill bottle found in a zippered bag inside Moorehead's trunk and (2) any "secondary" evidence obtained as a result of finding the pill

bottle. (Pen. Code, § 1538.5.) We summarize the trial testimony as it relates to the motion to suppress evidence.

***Prosecution evidence***

Deputy Sheriff Andrew Chappell testified that about 7:30 p.m. on April 4, 2015, he was on patrol in Lancaster with his partner Zachary Ullman when he observed that the registration tags on the car Moorehead was driving had expired four years previously. Deputy Chappell used the onboard computer to verify that the registration was expired and then pulled the car over. Moorehead told the deputy that he had just purchased the car and had not yet registered it. Moorehead did not have a driver's license and gave the deputy his name and birth date. Again using the onboard computer, Deputy Chappell discovered that Moorehead's license was suspended. Moorehead told the deputy that his license had been suspended since 1989. Deputy Chappell arrested Moorehead for the misdemeanor offense of driving with a suspended license.

Because the registration had been expired for more than four years and Moorehead had been driving with a suspended license, Deputy Chappell decided to impound the car.

Deputy Chappell described the usual procedure for impounding a vehicle. Pursuant to that procedure, the deputy informs the "desk," which calls a tow company. Before allowing the tow company to take the vehicle to the impound lot, a deputy is required "to take inventory of any damage which might be on the vehicle, any parts that might be missing, and any inventory of items inside the vehicle." When asked why the protocol was to inventory the contents of the vehicle, Deputy Chappell responded, "It's a liability issue in case the driver says something was missing which was never there in the first place."

Deputy Ullman conducted the inventory search of Moorehead's car. He testified that the deputies impounded the vehicle pursuant to Vehicle Code section 14602.6, which

authorizes impounding a vehicle and storing it in an impound lot for 30 days when the driver has a suspended license.

Following Moorehead's arrest, Deputy Ullman opened the trunk and saw some bags. One of the bags contained medications and other personal items belonging to Moorehead. In another bag Deputy Ullman found a blue folder with some papers and a prescription pill bottle. Deputy Chappell took a picture of the bag and the pill bottle. The pill bottle bore a SavOn Pharmacy label and the prescription was for "Lee Caviness." According to the prescription label, the bottle contained 60 pills of "hydrocodone," generic for Norco, but there were only 20 pills in the bottle.

After finding the pill bottle, Deputy Chappell advised Moorehead of his *Miranda* rights.<sup>1</sup> Moorehead waived his rights, and the deputy asked about the pills. Moorehead explained that he had picked up the pills that morning from a pharmacy—either Rite-Aid or Walgreen's—in Antelope Valley near Tenth Street and Palmdale Boulevard, and he was taking them to his "play sister," Joyce. He did not know Joyce's last name, but told the deputies that she lived near Tenth Street East and Avenue Q in Palmdale. Deputy Chappell testified that the area where he had stopped Moorehead was not between the pharmacy and Joyce's alleged residence. Moorehead explained his location by saying that he had intended to leave his car at the home of another "play sister."

Deputy Chappell noted three discrepancies in Moorehead's explanation: The pharmacy listed on the label was SavOn, not Rite-Aid or Walgreen's; the label showed the pharmacy location as Los Angeles, not Antelope Valley; and the fill date was not that day, but another day.

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<sup>1</sup> *Miranda v. Arizona* (1966) 384 U.S. 436 [86 S.Ct. 1602, 16 L.Ed.2d 694] (*Miranda*).

Deputy Chappell suspected that Moorehead was selling the pills, and asked Moorehead for permission to look through his cell phone for text messages. Moorehead gave the deputy permission. Deputy Chappell found one text message: “U a hook up sum 4 100 n stamps.” The deputy then asked Moorehead whether he was selling pills to make ends meet. Moorehead admitted he was selling pills for \$3 to \$4 each.<sup>2</sup>

Detective Israel Gonzalez, a narcotics investigator for the Los Angeles County Sheriff, testified to the meaning of the text message on Moorehead’s cell phone. Detective Gonzalez explained that “ ‘stamps’ ” refers to pharmaceutical pills, and each pill carries a street value of \$5 to \$6.

### ***Defense evidence***

John Jenks, a forensic addiction specialist and a licensed private investigator, testified for the defense that “N stamps” never refers to hydrocodone. Instead, the term refers to food stamps, sold on the street “for pennies on the dollar.”

Joyce Anderson Stewart testified that Moorehead is her uncle and Lee Caviness is her husband. Moorehead picked the couple up from the train station in his car. She had three bottles of her husband’s prescription medication with her and she accidentally left one bottle behind in the backseat where she had been sitting. Caviness testified that he knows Moorehead as a friend and neighbor. Caviness sees a doctor in Los Angeles. When Moorehead picked up Caviness and his wife at the train station, Joyce transferred some of the pills into Caviness’s pillboxes but accidentally left the bottle with the remaining pills in Moorehead’s car.

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<sup>2</sup> Los Angeles County Sheriff’s Department chemist Hector Juarez testified that, based on his analysis of the pills, each pill was composed of dihydrocodeinone, consisting of 7.5 milligrams of hydrocodone and 300.5 milligrams of acetaminophen.

## DISCUSSION

Moorehead challenges the trial court's denial of his motion to suppress the prescription pill bottle found in a zippered bag inside the trunk of his car. He contends that the trial court should have also suppressed the text message on his cellular telephone and his statements to Deputy Chappell. We disagree and affirm the judgment.

In reviewing the propriety of a warrantless inventory search incident to a vehicle impound, we defer to the express and implied factual and credibility findings of the trial court, if supported by substantial evidence. (*People v. Nottoli* (2011) 199 Cal.App.4th 531, 545.) We review independently the application of the law to the factual findings and determine whether the search was reasonable under the Fourth Amendment. (*Ibid.*)

Vehicle inventory searches are a well-defined exception to the Fourth Amendment warrant requirement. (*Colorado v. Bertine* (1987) 479 U.S. 367, 371 [107 S.Ct. 738, 93 L.Ed.2d 739].) Law enforcement officers do not need a warrant to impound and search a vehicle, where the impound and inventory search conform to standardized protocol. (*People v. Quick* (2016) 5 Cal.App.5th 1006, 1010; *People v. Williams* (2006) 145 Cal.App.4th 756, 761–762.) Where both officers testify to the same reason for impounding a vehicle, “it is not unreasonable to infer that both received standardized training as to such factors.” (*People v. Shafrir* (2010) 183 Cal.App.4th 1238, 1248.) Inventory protocols serve to protect the owner's property and to shield the law enforcement agency from claims of lost, stolen, or vandalized property. (*Florida v. Wells* (1990) 495 U.S. 1, 4 [110 S.Ct. 1632, 109 L.Ed.2d 1]; *Dakota v. Opperman* (1976) 428 U.S. 364, 369, 373–375 [96 S.Ct. 3092, 49 L.Ed.2d 1000]; *People v. Torres* (2010) 188 Cal.App.4th 775, 787.)

Protocols regarding the opening of closed containers must be standardized, but do not need to be in writing. (*People v. Williams* (1999) 20 Cal.4th 119, 127.) “A police officer may be

allowed sufficient latitude to determine whether a particular container should or should not be opened in light of the nature of the search and characteristics of the container itself.” (*Florida v. Wells, supra*, 495 U.S. at p. 4.)

However, an inventory search “must not be a ruse for a general rummaging in order to discover incriminating evidence. The policy or practice governing inventory searches should be designed to produce an inventory. The individual police officer must not be allowed so much latitude that inventory searches are turned into ‘a purposeful and general means of discovering evidence of crime.’” (*Florida v. Wells, supra*, 495 U.S. at p. 4.)

Deputies Chappell and Ullman conducted a lawful stop because the registration tags of Moorehead’s car had expired over four years previously. (Veh. Code, § 4000, subd. (a)(1) [“A person shall not drive, move, or leave standing upon a highway . . . any motor vehicle . . . unless it is registered and the appropriate fees have been paid”].) They arrested Moorehead upon his admission that he was driving with a license that had been suspended for 16 years. (Veh. Code, § 14601.1, subd. (a) [“No person shall drive a motor vehicle when his or her driving privilege is suspended”].)

Having arrested the driver of a car with long-expired registration, the deputies reasonably impounded Moorehead’s car. Vehicle Code section 22651, subdivision (o)(1)(A) authorizes an officer to remove a vehicle “[w]ith a registration expiration date in excess of six months before the date it is found or operated on the highway.”

Each deputy testified consistently with the other that before turning the car over to a third-party towing service, the inventory was necessary to prevent a subsequent unsubstantiated claim of property loss. Deputy Ullman opened the zippered bag to account for any property inside. The prosecution met its burden to justify the inventory search based on the lawful arrest and impound.

Because the inventory search was lawful, Deputy Chappell's subsequent inquiry to Moorehead regarding the pills—following Moorehead's waiver of his *Miranda* rights—was also lawful. Likewise, Deputy Chappell's examination of text messages on Moorehead's phone with Moorehead's permission was lawful. Therefore, the trial court properly denied the motion to suppress evidence.

**DISPOSITION**

The judgment is affirmed.

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LUI, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.