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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re J.B., a Person Coming Under the
Juvenile Court Law.

2d Juv. No. B247556
(Super. Ct. No. JV51133)
(San Luis Obispo County)

THE PEOPLE,

Plaintiff and Respondent,

v.

J.B.,

Defendant and Appellant.

J.B. appeals the juvenile court's order sustaining a wardship petition pursuant to appellant's admission that she possessed a controlled substance (Xanax) without a prescription (Bus. & Prof. Code, § 4060). (Welf. & Inst. Code, § 602, subd. (a).) The court placed appellant on six months probation without wardship. Appellant contends the court erred in denying her motion to suppress (Pen. Code, § 1538.5). We affirm.

STATEMENT OF FACTS

California Highway Patrol Officer Paul Budrow was on patrol when he saw four people on the bench seat of a truck in front of him. The truck abruptly turned into an

apartment complex known for illegal drug sales and drug use. The officer drove around the block and returned to see the truck leaving the complex.

Officer Budrow knew the truck only had three seatbelts, so he stopped the truck for a violation of the mandatory seatbelt law (Veh. Code, § 27315, subd. (d)). The driver of the truck and the right passenger were male, while the middle passengers were female. Appellant was the female sitting next to the male passenger. Neither female was wearing a seatbelt.

As Officer Budrow approached the truck he saw the male passenger make a furtive movement and hide his hands under a jacket on his lap. The male passenger did not comply with the officer's command to display his hands. Officer Budrow opened the truck's passenger door because he feared the male passenger was hiding a weapon. The male passenger appeared to shove something between his left leg and appellant's right leg, then dropped it on the floor and threw the jacket on top of it. Officer Budrow pulled the male passenger out of the truck and searched him for weapons. The officer then looked under the jacket and found a smoking device.

Officer Budrow ordered appellant out of the truck. Appellant started to bring her purse with her and the officer told her to leave it in the truck. He asked her for identification and she said she did not have any. The officer told appellant he was going to pat her down for weapons and search her for identification so he could issue her a citation for the seatbelt violation. The officer also said he was going to search her for drugs because of the drug paraphernalia he found in the truck.

Officer Budrow asked appellant if she had any weapons or illegal substances. Appellant motioned to her left front pocket and said she was in possession of prescription drugs. The officer removed a small vial from her pocket that contained several pills, one of which he recognized as the prescription drug Xanax. Appellant told the officer she had prescriptions for "Xannies" and Soma, but she was unable to provide any proof of this. Officer Budrow searched appellant's purse and found two pipes with marijuana residue, several lighters, and cigarette papers. The officer also searched the truck but found no further evidence of criminality.

Brandon Jones, the driver of the truck and appellant's boyfriend, testified at the suppression hearing on her behalf. Jones testified that Officer Budrow made all three passengers get out of the truck during the stop but allowed Jones to stay inside. Jones denied that the officer had searched his truck. The officer told Jones he was driving in violation of the mandatory seatbelt law but did not issue him a citation.

DISCUSSION

Appellant contends the court erred in denying her motion to suppress because the evidence of her illegal Xanax possession was the fruit of an unlawful search. She claims that Officer Budrow lacked reasonable suspicion to frisk her for weapons, and lacked probable cause to search her for drugs. We conclude otherwise.

"The standard of appellate review of a trial court's ruling on a motion to suppress is well established. We defer to the trial court's factual findings, express or implied, where supported by substantial evidence. In determining whether, on the facts so found, the search or seizure was reasonable under the Fourth Amendment, we exercise our independent judgment. [Citations.]' [Citation.]" (*People v. Weaver* (2001) 26 Cal.4th 876, 924.) "[W]e view the record in the light most favorable to the trial court's ruling" (*People v. Jenkins* (2000) 22 Cal.4th 900, 969.)

The Fourth Amendment protects against unreasonable searches and seizures. (*Terry v. Ohio* (1968) 392 U.S. 1, 20.) An officer may conduct a limited search for weapons without violating the Fourth Amendment when "specific and articulable facts . . . taken together with rational inferences from those facts," give rise to an objectively reasonable suspicion that the suspect is armed and dangerous. (*Id.* at p. 21.) This rule applies to both drivers and passengers of vehicles subjected to a traffic stop. (*People v. Collier* (2008) 166 Cal.App.4th 1374, 1377.) A patdown search for weapons is lawful in this context "' . . . when the officer has a reasonable suspicion that illegal drugs are in the vehicle" [Citation.]" (*Id.* at p. 1378.) Here, there were specific and articulable facts giving rise to a reasonable suspicion that drugs were in the truck in which appellant was a passenger. The truck had just exited an apartment complex known for drug sales and drug use. Moreover, a smoking device was found on the floor of the

truck near where appellant was sitting. In light of these facts, the officer's decision to frisk appellant for weapons was plainly justified.

The same facts also gave Officer Budrow probable cause to search appellant for drugs. "Proof of the accused's access to the place where contraband is found is some inferential evidence of possession, and when accompanied by other evidence, even if it be slight, will support a finding of probable cause" (*Frazzini v. Superior Court* (1970) 7 Cal.App.3d 1005, 1017.) The manner in which appellant's companion dropped the smoking device on the floor of the truck provided circumstantial evidence that appellant had knowledge of its presence and character. (*Rideout v. Superior Court* (1967) 67 Cal.2d 471, 474-475.) Moreover, the location of the paraphernalia and the circumstances of the stop gave Officer Budrow probable cause to believe appellant shared joint possession of it. (*Id.* at p. 475.) Because the device was used for smoking drugs, the officer's belief that appellant had possession of it gave him probable cause to believe she was also in possession of drugs. The decision to search her for drugs thus did not violate the Fourth Amendment.

The order sustaining the wardship petition is affirmed.

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PERREN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

Linda D. Hurst, Judge
Superior Court County of San Luis Obispo

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