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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. ELIGIO A. MANRIQUEZ, Defendant and Appellant.	B281596 (Los Angeles County Super. Ct. No. BA437095)

APPEAL from a judgment of the Superior Court of Los Angeles County, Edmund Wilcox Clarke, Jr., Judge. Affirmed.

Kevin Smith, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Victoria B. Wilson and Thomas C. Hsieh, Deputy Attorneys General, for Plaintiff and Respondent.

Defendant Eligio Alvarez Manriquez (defendant) appeals the judgment entered following his plea of no contest to possession of cocaine for sale (Health & Saf. Code, § 11351, count 1), transportation of cocaine for sale (Health & Saf. Code, § 11352, subd. (a), count 2), and conspiracy to commit sale or transportation of cocaine (Pen. Code[1], § 182, subd. (a)(1), count 3). Defendant contends the trial court erroneously denied his motion to suppress cocaine seized from the rear area of a car in which he was a passenger. For the reasons set forth below, we affirm.

I. BACKGROUND

A. Factual Background

On June 2, 2015, Huntington Park Police Detective Sidney Abraham and five other investigators participated in surveillance of a Starbucks coffee shop located in Santa Fe Springs, California. The investigators were members of an inter-agency drug task force known as L.A. IMPACT.[2] They observed the following: defendant and codefendant Jose Lopez arrived at the Starbucks in a Nissan Versa hatchback (the Nissan). Defendant, Lopez, a woman named Barraza, and a small child got out of the Nissan and entered the Starbucks.

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[1] Further statutory references are to the Penal Code unless otherwise noted.

[2] L.A. IMPACT was an acronym for "Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force."

A short while later, Lopez walked out of the Starbucks and appeared to look for someone in the parking lot. Meanwhile, codefendant Eddie Perez arrived at the Starbucks parking lot in a different car. Perez parked, got out of his car, and met with Lopez. Lopez handed keys to Perez. Perez got into the driver's seat of the Nissan and pulled out of the parking lot, alone.

Perez drove a short distance away and pulled into the driveway of a house. The driveway contained a tarp that was hung like a curtain such that once a car drove through the tarp, it was entirely concealed behind it. Perez and the Nissan stayed behind the tarp for approximately five minutes before Perez drove the Nissan out of the driveway, and returned to the Starbucks parking lot. Perez parked the Nissan and walked toward his own car. Lopez came out of the Starbucks, looked inside the Nissan, and nodded to Perez. Perez then left in his own car.

Defendant, Barraza, and the child walked out of the Starbucks and got into the Nissan. Lopez drove the Nissan while defendant sat in the back seat. Lopez drove the Nissan east on a highway for two hours. Defendant, who sat in the back seat, turned around to look out the rear window a number of times, as if he were checking traffic behind him.

Redondo Beach Police Detective Robert Carlborg, also a member of L.A. IMPACT, contacted California Highway Patrol (CHP) Officer Anthony Soriano and asked him to stop the Nissan. Detective Carlborg hoped Officer Soriano would find a traffic violation justifying a pretextual stop. Officer Soriano understood that his objective was to stop the Nissan as part of a narcotics investigation. He testified that he stopped the Nissan because he

believed Lopez was not wearing a seatbelt. Lopez, however, was wearing a seatbelt.

Approximately 15 minutes after the stop, a CHP drug-sniffing dog alerted to the rear area of the Nissan and investigators recovered 50 kilograms of cocaine there.

Detective Abraham testified that he had been a law enforcement officer for nine and one-half years and based on hundreds of investigations, he believed that Lopez and Perez had participated in a narcotics-related transaction: "When transactions are happening between two separate parties, it's very common for there to be what's called a stash house. Stash house being a location where narcotics are stored. And typically the parties that are involved tend to try to compartmentalize themselves and separate themselves from each other. So usually those that are running the stash house don't want anyone to know where the stash house is. [¶] And what I've seen on several other investigations is, where you see a similar vehicle switch, where two people meet in a public place, a vehicle switch happens, the vehicle is then taken to where the stash house is, and then whatever needs to happen at that stash house—it's usually one of four or five scenarios. Dope goes in, dope comes out. Money goes in, money comes out. Or a combination of those. And then typically the vehicle is then returned to the original public meeting place."

Detective Carlborg testified that he had been a sworn peace officer for 21 years and that based on his experience investigating narcotics offenses, he also believed Lopez and Perez had participated in a drug deal: "Drug dealing is a violent business and you have to keep information compartmentalized. So you would never give up a location of a stash . . . . So you wouldn't

give that information up to somebody unless they were extremely trusted and close. [¶] So a person coming in, you would never direct them directly into your stash location, because that person would now know the location where a large amount of narcotics were stored, and then could give that information either to law enforcement, or to a rival drug group, who would then come in, rob the location. So the way to keep their location safer, and the way they keep themselves safe, is to keep that kind of information compartmentalized."

B. Procedural Background

On December 11, 2015, defendant and Lopez moved to suppress evidence of the 50 kilograms of cocaine that had been seized from the rear area of the Nissan. The trial court found that Officer Soriano did not have reasonable suspicion to believe that Lopez was not wearing a seatbelt. The trial court further concluded that although it credited the testimony of investigators who described events at the Starbucks and driveway, such evidence was insufficient to raise a reasonable suspicion that a crime had been committed. Accordingly, the trial court granted the motion to suppress as to Lopez. It denied the motion as to defendant, however, concluding that defendant, as a passenger, did not have a reasonable expectation of privacy in the Nissan or in its contents.

Following the denial of defendant's motion to suppress evidence, defendant changed his plea to no contest to all three counts. The trial court accepted the plea and sentenced defendant to 22 years' imprisonment.

II. DISCUSSION

A. Standard of Review

"In reviewing the trial court's suppression ruling, we defer to its factual findings if supported by substantial evidence. We independently assess the legal question of whether the challenged search or seizure satisfies the Fourth Amendment." (*People v. Brown* (2015) 61 Cal.4th 968, 975 (*Brown*).)

B. Defendant Has Standing To Challenge Traffic Stop

A passenger is seized for purposes of the Fourth Amendment during a traffic stop by law enforcement. (*Brendlin v. California* (2007) 551 U.S. 249, 255-258; *People v. Letner and Tobin* (2010) 50 Cal.4th 99, 141, fn. 7.) A reasonable passenger in defendant's position would have believed he was seized for purposes of the Fourth Amendment when Officer Soriano stopped the Nissan. Thus, defendant has standing to raise a Fourth Amendment challenge to the stop.

C. Reasonable Suspicion for Traffic Stop

"[A]n officer may stop and detain a motorist on reasonable suspicion that the driver has violated the law. [Citations.] The guiding principle in determining the propriety of an investigatory detention is 'the reasonableness in all the circumstances of the particular governmental invasion of a citizen's personal security.' [Citations.] In making our determination, we examine 'the totality of the circumstances' in each case. [Citations.] [¶] Reasonable suspicion is a lesser standard than probable cause,

and can arise from less reliable information than required for probable cause, including an anonymous tip. [Citation.] But to be reasonable, the officer's suspicion must be supported by some specific, articulable facts that are 'reasonably "consistent with criminal activity."' [Citation.] The officer's subjective suspicion must be objectively reasonable, and 'an investigative stop or detention predicated on mere curiosity, rumor, or hunch is unlawful, even though the officer may be acting in complete good faith. [Citation.]' [Citation.] But where a reasonable suspicion of criminal activity exists, 'the public rightfully expects a police officer to inquire into such circumstances "in the proper exercise of the officer's duties." [Citation.]' [Citation.]" (*People v. Wells* (2006) 38 Cal.4th 1078, 1082-1083; accord, *People v. Hernandez* (2008) 45 Cal.4th 295, 298-299.) The evidence must be viewed "as understood by those versed in the field of law enforcement." (*United States v. Cortez* (1981) 449 U.S. 411, 418.)

It is undisputed that Officer Soriano lacked reasonable suspicion to stop the vehicle for a seatbelt violation. The Attorney General, however, argues that there was reasonable suspicion to stop the vehicle for possible criminal narcotic activity. We agree.

Officer Soriano is imputed to have knowledge of the L.A. IMPACT investigation under the collective knowledge doctrine, which "allows courts to impute police officers' collective knowledge to the officer conducting a stop, search, or arrest." (*United States v. Villasenor* (9th Cir. 2010) 608 F.3d 467, 475; *Brown, supra*, 61 Cal.4th at p. 983; *People v. Gomez* (2004) 117 Cal.App.4th 531, 538; *People v. Ramirez* (1997) 59 Cal.App.4th 1548, 1553; *People v. Soun* (1995) 34 Cal.App.4th 1499, 1521.) Defendant contends that the observations of L.A. IMPACT

investigators cannot be imputed to Officer Soriano because Officer Soriano was not aware of the ongoing work of L.A. IMPACT and stopped the Nissan because he believed that the driver was not wearing a seatbelt. "'[W]here an officer [(or team of officers),] with direct personal knowledge of *all* the facts necessary to give rise to reasonable suspicion . . . directs or requests that another officer . . . conduct a stop, search or arrest[,]' . . . collective knowledge may be imputed only if there has been some 'communication among agents.' [(*United States v. Ramirez* (9th Cir. 2007) 473 F.3d 1026, 1032-1033.)]" (*United States v. Villasenor, supra*, 608 F.3d at p. 475; *Brown, supra*, 61 Cal.4th at p. 983; *People v. Gomez, supra*, 117 Cal.App.4th at p. 538; *People v. Ramirez, supra*, 59 Cal.App.4th at p. 1553; *People v. Soun, supra*, 34 Cal.App.4th at p. 1521.) Here, L.A. IMPACT investigators requested that Officer Soriano stop the Nissan as part of a narcotics investigation. Neither Detective Carlborg's hope that the CHP would stop the Nissan for a traffic violation nor Officer Soriano's belief that he could stop the Nissan for a seatbelt violation defeats this court's finding of reasonable suspicion. (See *Whren v. United States* (1996) 517 U.S. 806, 812-813 [finding that the constitutional reasonableness of traffic stops must be evaluated based on an objective standard rather than on the subjective motivations of the individual officers involved].)

Investigators had observed Perez and Lopez engage in a vehicle switch, Perez drive a short distance away and disappear behind a tarp, and Perez leave the Starbucks only after Lopez looked in the Nissan and nodded to him. As Detective Abraham and Detective Carlborg testified, this conduct was entirely consistent with a switch of narcotics or money among people who sought to compartmentalize knowledge of the location of a stash

house. Even assuming that there was an innocent explanation for this conduct, such possibility does not deprive an officer of the capacity to entertain a reasonable suspicion of criminal conduct. (*In re Tony C.* (1978) 21 Cal.3d 888, 893.) Officers had reasonable suspicion to stop the Nissan for investigation of a drug-related crime. Accordingly, we disagree with the trial court and find the initial stop was lawful.

D. Search of the Vehicle

Defendant argues he has standing to challenge the search of the rear area of the Nissan. We disagree. An individual cannot challenge the introduction of evidence obtained in an allegedly unlawful search unless that individual had a reasonable expectation of privacy in the object seized or the place searched. (*Rakas v. Illinois* (1978) 439 U.S. 128, 143; *People v. Valdez* (2004) 32 Cal.4th 73, 122.)

"'Fourth Amendment rights are personal rights which, like some other constitutional rights, may not be vicariously asserted.' [Citations.] A person who is aggrieved by an illegal search and seizure only through the introduction of damaging evidence secured by a search of a third person's premises or property has not had any of his Fourth Amendment rights infringed. [Citation.] And since the exclusionary rule is an attempt to effectuate the guarantees of the Fourth Amendment, [citation], it is proper to permit only defendants whose Fourth Amendment rights have been violated to benefit from the rule's protections." (*Rakas v. Illinois, supra*, 439 U.S. at pp. 133-134.)

In *Rakas v. Illinois*, the United States Supreme Court held passengers in a car had no reasonable expectation of privacy in a

search of the glove compartment and the area under the front passenger seat. (*Rakas v. Illinois, supra*, 439 U.S. at pp. 130, 148.) In *People v. Valdez*, our Supreme Court held a passenger in a vehicle, without more, lacked a reasonable expectation of privacy and could not challenge the seizure of a gun found under the driver's seat. (*People v. Valdez, supra*, 32 Cal.4th at p. 122.)

The situation here is indistinguishable from *Rakas v. Illinois* and *People v. Valdez*. As a mere passenger, defendant had no reasonable expectation of privacy in the rear area of the Nissan. Moreover, he cannot otherwise claim a legitimate expectation of privacy in contraband, such as the cocaine that was seized here. (*Illinois v. Caballes* (2005) 543 U.S. 405, 408-409.)

Because we have found that the initial stop was lawful, defendant has no grounds to contest the search of the Nissan, such as through the fruit of the poisonous tree doctrine. (Cf. *Brewer v. Superior Court* (2017) 16 Cal.App.5th 1019, 1024-1025 [passenger of vehicle may challenge evidence from search of vehicle as fruit of unlawful detention *if* the initial stop was unlawful].) The rationale in *Rakas v. Illinois* and *People v. Valdez* applies here.

III. DISPOSITION

The judgment is affirmed.

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KIM, J.*

We concur:

KRIEGLER, Acting P.J.

BAKER, 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.