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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

KODY GOOSBY,

Defendant and Appellant.

B237251

(Los Angeles County
Super. Ct. No. YA080953)

APPEAL from a judgment of the Superior Court of Los Angeles County, James R. Brandlin, Judge. Affirmed.

Richard L. Fitzer, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Following the trial court's denial of his motion to suppress evidence pursuant to Penal Code section 1538.5,¹ defendant Kody Goosby pled no contest to the unlawful possession of ammunition in violation of section 12316, subdivision (b)(1) and admitted that he had a prior strike within the meaning of sections 667, subdivisions (b) through (i) and 1170.12, subdivisions (a) through (d). He was sentenced to 32 months in state prison, consisting of the low term of 16 months doubled as a result of the prior strike. He appeals the trial court's denial of his suppression motion. We affirm.

STATEMENT OF FACTS²

At approximately 12:47 a.m. on April 27, 2011, Torrance Police Officer Matthew Jungers and his partner Officer Wayne Holbrook were on patrol. The officers observed a vehicle with tinted windows. The officers conducted a traffic stop. As they approached the car, Holbrook asked the driver to roll down all of the windows. Upon looking into the car, Jungers noticed there was a driver and two passengers. He also smelled the odor of burnt marijuana.

Defendant was seated in the front passenger seat. As the female driver exited the vehicle at Holbrook's request, Jungers spoke to defendant. Noticing defendant had numerous tattoos, Jungers asked him if he belonged to a gang. After defendant responded that he was a member of the 52nd Street Hoover Crips, Jungers asked him if he had anything illegal on his person. Defendant stated he had ammunition left from an earlier trip to the firing range. Jungers recovered a coin purse that contained twelve .22 caliber rounds from defendant's pocket. After arresting defendant, Jungers ran a warrant check and discovered that defendant had two felony arrest warrants for residential burglary out of the State of Texas.

¹ All further statutory references are to the Penal Code.

² We take the facts from the hearing on defendant's section 1538.5 motion.

Shaquon White, defendant's former girlfriend, was the owner and driver of the vehicle the officers stopped. She admitted that she had the windows of her car tinted. When she asked why she had been stopped, the officers said it was because defendant was not wearing a seat belt. White pointed out that defendant had a seat belt and suggested the officers did not see it. After one of the officers ran her license, he returned and said someone had been smoking marijuana in the car. White said she had smoked in the car earlier and the officer said, "Well, we'll say that your tints are too dark." White was cited for having tinted windows. When she went to get the violation corrected, she was informed there was nothing wrong with the windows.³

DISCUSSION

After reviewing the record, defendant's court-appointed counsel filed an opening brief and requested that this court independently review the record for appellate issues pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Counsel filed a declaration stating that he had advised defendant of the nature of the brief he was filing and had sent defendant a copy of the brief and the record on appeal.

On February 3, 2012, we sent a letter to defendant informing him that he had 30 days within which to submit any issues that he wished us to consider. To date, we have received no response.

We have independently reviewed the record on appeal and are satisfied that no arguable issues exist. Defendant has, by virtue of counsel's compliance with the *Wende* procedure and our independent review of the record, received effective appellate review of the judgment entered against him. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-279; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

³ In denying the motion, the court found the officer's version of the events credible.

DISPOSITION

The judgment is affirmed.

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SUZUKAWA, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.