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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.

DESIDERIO RENTERIA,

Defendant and Appellant.

B270053

(Los Angeles County
Super. Ct. No.
MA066121)

APPEAL from a judgment of the Superior Court of Los Angeles County, Kathleen Blanchard, Judge. Affirmed as modified.

Brad Kaiserman, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Margaret E. Maxwell, Supervising Deputy Attorney General, for Plaintiff and Respondent.

The jury found defendant and appellant Desiderio Renteria guilty in count 3 of false compartment activity. (Health & Saf. Code, § 11366.8.)¹ The jury was unable to reach verdicts on the charges of transportation of methamphetamine in count 1 (§ 11379) and possession of methamphetamine for sale in count 2 (§ 11378). The trial court found defendant had served a prior prison term within the meaning of Penal Code section 667.5, subdivision (b). As the result of a plea agreement with the prosecution, defendant entered a plea of guilty in count 1. Count 2 and the prior prison term allegation were dismissed.

The trial court sentenced defendant to three years in county jail in count 1. The court imposed a term of two years in county jail in count 3, which was stayed pursuant to Penal Code section 654.

Defendant contends there is insufficient evidence to support his conviction for false compartment activity in

¹ All statutory references are to the Health and Safety Code unless otherwise specified.

count 3. He also requests independent review of the sealed portion of the record pertaining to discovery of personnel records of two officers under *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 (*Pitchess*).

The Attorney General contests defendant's challenge to the sufficiency of the evidence, but does not oppose review of the records reviewed in camera by the trial court in connection with defendant's *Pitchess* motion. The Attorney General argues, and defendant concedes, that the abstract of judgment improperly reflects that defendant was convicted by plea in count 3.

We order the abstract of judgment corrected to reflect that defendant was convicted by jury in count 3, but otherwise affirm the judgment.

FACTS

Prosecution

On the afternoon of May 26, 2015, Los Angeles County Sheriff Deputies Arnold Camacho and Paul Mendez stopped defendant on his motorcycle. Deputy Camacho noticed a nylon bag protruding from the right side of the motorcycle, which contained an electronic scale and 20 plastic baggies.

The deputy also found an eyeglass case wrapped in black electrical tape hidden behind the transmission area of the motorcycle in front of the rear tire. The case was attached to the motorcycle with at least two magnets. It

contained three baggies of a substance that resembled methamphetamine. Subsequent testing revealed that the baggies held approximately 6.7 grams of a substance that contained methamphetamine. Deputy Camacho testified that a usable amount of methamphetamine is .02 grams.

Deputy Camacho searched defendant's person and his cell phone. The cell phone contained several text messages that appeared to reference a drug transaction. The deputy found \$186 in defendant's wallet. The denominations of the currency were consistent with a narcotics transaction. The amount of money possessed by defendant was consistent with the value of the drugs defendant possessed.

Deputy Mendez searched defendant's backpack, which did not contain any items used to ingest the drug. Defendant did not appear to be under the influence of methamphetamine at the time of the stop.

Deputy Camacho opined that in a hypothetical situation with facts mirroring the present case, he would conclude that the drugs were possessed and transported for purposes of sale. He based his opinion on the location and amount of methamphetamine, the hidden compartment, the fact that the drugs were being transported, the small baggies, the electronic scale, the three baggies containing the methamphetamine, the lack of any items used to ingest methamphetamine, and the text messages describing the transaction.

Defense

Defendant testified that he was addicted to methamphetamine. He usually purchased seven grams at a time and used the scale to verify the amount of his purchases, and to weigh the amount of methamphetamine he needed for each use.

Defendant smoked methamphetamine on the morning of May 26, 2015. He was transporting the drugs to his new home when he was stopped by the deputies. He used two of the baggies to separate the bigger pieces of methamphetamine from the powder. The third baggie contained leftover methamphetamine from an earlier purchase. Defendant used the empty baggies to replace the methamphetamine-filled baggies when they ripped. He was carrying cash because he had just been paid for automobile repair work and he had sold fundraiser cards for his daughter.

Defendant had a hollow pen and a glass pipe in his bag, which he used to snort methamphetamine. He planned to use the 6.7 grams of methamphetamine himself. In his experience, sellers of methamphetamine are not also users.

Defendant's text messages were to his ex-girlfriend, who also used methamphetamine. His relationship with her was purely sexual. He had never sold her methamphetamine. Defendant texted his ex-girlfriend hoping to have sex with her, not to sell her drugs.

Defendant hid the methamphetamine on the motorcycle to prevent users and anyone else from finding it, not to transport it for sale.

DISCUSSION

False Compartment Activity

Defendant contends that his conviction for false compartment activity in count 3 must be reversed because it is not supported by substantial evidence in the record. We disagree.

In determining whether sufficient evidence supports a conviction, “we review the whole record to determine whether *any* rational trier of fact could have found the essential elements of the crime . . . beyond a reasonable doubt. [Citation.] The record must disclose substantial evidence to support the verdict—i.e., evidence that is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.] In applying this test, we review the evidence in the light most favorable to the prosecution and presume in support of the judgment the existence of every fact the jury could reasonably have deduced from the evidence. [Citation.] ‘ . . . We resolve neither credibility issues nor evidentiary conflicts; we look for substantial evidence. [Citation.]’ [Citation.] A reversal for insufficient evidence ‘is unwarranted unless it appears

“that upon no hypothesis whatever is there sufficient substantial evidence to support” the jury’s verdict. [Citation.]” (*People v. Zamudio* (2008) 43 Cal.4th 327, 357.)

Section 11366.8, subdivision (a), prohibits “possess[ion], use[], or control[] [of] a false compartment with the intent to store, conceal, smuggle, or transport a controlled substance within the false compartment” The statute defines a “false compartment” as “any box, container space, or enclosure that is intended for use or designed for use to conceal, hide, or otherwise prevent discovery of any controlled substance within or attached to a vehicle, including, but not limited to, any of the following: [¶] (1) False, altered, or modified fuel tanks. [¶] (2) Original factory equipment of a vehicle that is modified, altered, or changed. [¶] (3) Compartment, space, or box that is added to, or fabricated, made, or created from, existing compartments, spaces, or boxes within a vehicle.” (§ 11366.8, subd. (d).)

Defendant relies on *People v. Arias* (2008) 45 Cal.4th 169 (*Arias*) in support of his argument that the eyeglass case discovered behind the transmission area of the motorcycle is not a false compartment. *Arias* is readily distinguishable from the present case.

In *Arias*, the court addressed whether it was error to instruct that unmodified original factory equipment met the definition of a false compartment set forth in section 11366.8. During a vehicle stop, a police officer discovered “a plastic ball containing a white crystalline substance sticking

out of a ‘gap’ between the dashboard and steering column [of the defendant’s car]. [The officer] pulled off the ‘loose’ dashboard panel located ‘just above [a seated driver’s] left knee’ and removed the plastic, which contained three baggies containing a white substance. The space under the steering column and behind the dashboard contained wiring circuitry, and [the officer] testified that it ‘didn’t appear to be a storage area’ or to have ‘a hand release or anything like a button on the glove compartment.’ He noted that the panel easily ‘clipped’ in and out, apparently to allow access to the wiring for ‘people working on the car.’” (*Arias, supra*, 45 Cal.4th at p. 174.)

The jury instruction at issue stated in part that “a false compartment is a space in a vehicle that is neither designed nor intended for storage or transportation of personal items, but is, nevertheless, used to conceal controlled substances even without any modification of the physical configuration of the space.” (*Arias, supra*, 45 Cal.4th at p. 176, italics omitted.)

Our Supreme Court interpreted section 11366.8 to “exclude from its definition of ‘false compartment’ a vehicle’s original factory equipment that has not been modified, altered, or changed in any way.” (*Arias, supra*, 45 Cal.4th at pp. 173–174.) The court disapproved the jury instruction, concluding that “if the Legislature had intended to be included within its definition of ‘false compartment’ original factory equipment of a vehicle that was not modified, altered, or changed, it would not have included those three

qualifying modifiers to ‘original factory equipment’ in its second example of a false compartment.” (*Id.* at p. 179, italics omitted.)

The instructional error in *Arias* is not present here. The jury was instructed in the statutory language, and was additionally instructed: “The term ‘false compartment’ does not refer to a vehicle’s original equipment that has not been modified, altered, or changed in any way.” This instruction is consistent with the holding in *Arias*.

Turning to the facts, defendant’s methamphetamine was not contained in “a vehicle’s *original factory equipment* that has not been modified, altered, or changed in any way.” (*Arias, supra*, 45 Cal.4th at pp. 173–174, italics added.) Deputies discovered the narcotics inside an eyeglass case that had been wrapped in electrical tape, affixed to the motorcycle with magnets, and hidden behind the transmission area of the motorcycle in front of the rear tire. The eyeglass case was a false compartment under the plain language of the statute, which includes in its definition a “[c]ompartment . . . or box that is added to . . . [an] existing . . . space[] . . . within a vehicle.” (§ 11366.8, subdivision (d)(3).) Defendant’s conviction for false compartment activity is supported by substantial evidence.

Pitchess Motion

The court granted defendant’s *Pitchess* motion requesting material from the personnel files of two deputies

concerning complaints of misconduct relating to the deputies' honesty.² The motion was based on counsel's declaration that defendant's account of the stop and search of his motorcycle conflicted with the deputies' version of events, as reflected in the sheriff's report.

After conducting an in camera review of the documents presented by the custodian of records, the trial court found no discoverable material to be turned over to the defense. Defendant, who is not privy to the sealed transcript of the in camera hearing, requests our independent review of the sealed portion of the record. Pursuant to that request, we must determine whether the trial court abused its discretion and erroneously withheld discoverable information from the defense.

A criminal defendant is entitled to discovery of officer personnel records if the information contained in the records is relevant to his ability to defend against the charge. (*Pitchess, supra*, 11 Cal.3d at pp. 537–538.) Legislation implementing the court's rule permitting discovery (Pen. Code, §§ 832.5, 832.7, 832.8; Evid. Code, §§ 1043–1047) balances the accused's need for disclosure of relevant information against a law enforcement officer's legitimate expectation of privacy in his or her personnel records. A defendant, by written motion, may obtain information contained in a peace officer's personnel records if it is material to the facts of the case. (Evid. Code, § 1043, subd.

² The motion was also based on *Brady v. Maryland* (1963) 373 U.S. 83.

(b)(3).) When presented with such a motion, the trial court rules as to whether there is good cause for disclosure. (*Id.*, §§ 1043, 1045.) If the court orders disclosure, the custodian of the officer's records brings to court all the potentially relevant personnel records, and, in camera, the trial court determines whether any part of the record is to be disclosed to the defense. "A trial court's ruling on a motion for access to law enforcement personnel records is subject to review for abuse of discretion." (*People v. Hughes* (2002) 27 Cal.4th 287, 330; accord *Haggerty v. Superior Court* (2004) 117 Cal.App.4th 1079, 1086, citing *People v. Samayoa* (1997) 15 Cal.4th 795, 827; *People v. Gill* (1997) 60 Cal.App.4th 743, 749.)

We have reviewed the sealed transcript of the in camera hearing. "The hearing transcript contains an adequate record of the court's review and analysis of the documents provided to it. It reveals no abuse of discretion." (*People v. Myers* (2007) 148 Cal.App.4th 546, 553, citing *People v. Mooc* (2001) 26 Cal.4th 1216, 1228.)

Inaccurate Abstract of Judgment

The abstract of judgment improperly reflects that defendant was convicted by guilty plea in count 3. We agree with the parties that the abstract of judgment must be modified to reflect that the conviction in count 3 was by jury. (See *People v. Mitchell* (2001) 26 Cal.4th 181, 185 [appellate courts have inherent power to correct clerical errors].)

DISPOSITION

We remand for the trial court to correct the abstract of judgment to properly reflect that defendant was convicted by jury in count 3. The clerk of the superior court shall send a copy of the corrected abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

KRIEGLER, Acting P.J.

We concur:

BAKER, J.

KIN, J.*

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