

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

BOBBIE BEAL,

Defendant and Appellant.

B242613

(Los Angeles County
Super. Ct. No. BA373655)

APPEAL from a judgment of the Superior Court of Los Angeles County, Norm Shapiro, Judge. Affirmed.

Alex Green, under appointment by the Court of Appeal, and Bobbie Beal, in pro. per., for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Bobbie Beal was convicted of possessing hydrocodone for the purpose of sale. (Health & Safety Code, § 11351.) He appealed, contending that the trial court erred in denying his challenge pursuant to *Batson v. Kentucky* (1986) 476 U.S. 79 and *People v. Wheeler* (1978) 22 Cal.3d 258 by refusing to consider whether two jurors had been excused on the basis of their race on the grounds that the challenge was untimely. We agreed and remanded the matter for the trial court to evaluate the prosecutor's reasons for challenging the two jurors and determine whether the prosecutor exercised her peremptory challenges in a permissible fashion. (*People v. Beal* (Feb. 24, 2012, B231175) [nonpub. opn.].) After conducting a hearing, the trial court found that the challenges were race-neutral and reinstated the judgment. Defendant appeals and we affirm.

DISCUSSION¹

After reviewing the record, defendant's 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. Counsel and this court informed defendant that he had 30 days within which to submit any issues that he wished this court to consider. Defendant filed a supplemental brief.

We have reviewed the transcript of the hearing on defendant's *Batson/Wheeler* motion. The prosecutor told the court that she challenged one of the jurors because he had previously been a juror in an attempted murder trial and the jury was unable to reach a verdict. In addition, the juror had been convicted of a misdemeanor and had another experience where police officers were not truthful when citing him for a traffic violation. The prosecutor pointed out that her case relied entirely on the testimony of officers and stated she did not want that juror judging the case. As to the other excused juror, the

¹ Given the procedural posture of the case, we need not set forth the factual underpinnings of the charge.

prosecutor noted that the juror described three separate incidents where he believed the police had lied. She did not want a juror who thought police officers were not credible. The trial court concluded the challenges were race-neutral and the record supports that finding.

In his supplemental brief, defendant contends the evidence is insufficient to sustain the conviction. Any evidence regarding the sufficiency of the evidence should have been presented in the initial appeal. The matter was remanded for the sole purpose of resolving issues pertaining to jury selection. (See *People v. Senior* (1995) 33 Cal.App.4th 531, 534.) In any event, defendant's claim is without merit. As we understand his argument, the jury's inability to reach a verdict on one of the charged counts demonstrates that the evidence was insufficient to support its verdict on the other. The count upon which the jury could not agree charged defendant with the sale of hydrocodone. The jury's failure to reach a verdict on that count has no bearing on whether defendant possessed the same drug with the intent to sell it.

We are satisfied that no other arguable issues exist and that defendant has 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.)

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

SUZUKAWA, J.

We concur:

WILLHITE, Acting P. J.

MANELLA, J.