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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL FLORES JIMENEZ,

Defendant and Appellant.

B284605

(Los Angeles County  
Super. Ct. No. NA 106026)

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

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

No appearance for Plaintiff and Respondent.

Following the denial of his motion to suppress evidence pursuant to Penal Code section 1538.5,<sup>1</sup> defendant and appellant Daniel Jimenez pleaded no contest to one count of carrying a concealed dirk or dagger in violation of section 21310. Jimenez's appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) raising no issues on appeal and requesting that we independently review the record. We have done so, and we affirm.

Leonard Compton, a police officer with the Long Beach Police Department, testified that, just after midnight on March 14, 2017, he and his partner saw Jimenez walking in circles in the middle of Pacific Avenue and talking or yelling to himself. Compton believed that Jimenez was in violation of the Long Beach Municipal Code because he was walking in the roadway, and also thought Jimenez might be intoxicated. Compton and his partner stopped Jimenez and asked him if he was carrying any weapons. Jimenez replied that he had a knife in his waistband. Compton patted him down, discovered the knife, took it out of Jimenez's waistband, and handed it to his partner. The knife appeared to be a kitchen knife, approximately eight inches long with a fixed blade.

An information charged Jimenez with one count of carrying a concealed dirk or dagger, in violation of section 21310. In addition, the information alleged that Jimenez had suffered one prior strike (§§ 667, subs. (b)-(j), 1170.12) and one prison prior. (§ 667.5.) Jimenez filed a motion to suppress the evidence against him on the ground that it was the fruit of an illegal search and seizure. When the trial court denied that motion, Jimenez pleaded no contest. Pursuant to the terms of a plea bargain, the court sentenced Jimenez to 32 months in prison, consisting of the low term of 16 months, doubled as a result of the prior strike.

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<sup>1</sup> Unless otherwise specified, subsequent statutory references are to the Penal Code.

Jimenez filed a timely appeal to challenge the denial of the suppression motion. (See § 1538.5, subd. (m).) We appointed counsel to represent Jimenez in the matter. After examining the record, counsel filed a *Wende* brief raising no issues on appeal and requesting that we independently review the record. (*Wende, supra*, 25 Cal.3d 436.) On November 30, 2017, we sent a letter to Jimenez and to counsel. In the letter, we directed counsel to immediately send the record on this appeal and a copy of the *Wende* brief to Jimenez and informed him that he had 30 days to submit by letter or brief any ground of appeal, contention or argument he wished us to consider. We have received no communication from Jimenez.

We have reviewed the entire record on appeal. “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.) Under this standard, we agree with the trial court that the search of Jimenez was reasonable under the Fourth Amendment. In testimony that the trial court found credible, Compton stated that Jimenez was behaving erratically, possibly intoxicated, and talking or yelling to himself while standing in a roadway late at night. This was sufficient to create a reasonable suspicion for Compton and his partner to stop and question Jimenez. (See *People v. Wells* (2006) 38 Cal.4th 1078, 1082-1083.) When Jimenez admitted to having a knife concealed on his person, Compton had probable cause to search him. We are satisfied that Jimenez’s counsel has fully complied with his responsibilities and that no arguable appellate issue exists. (*Wende, supra*, 25 Cal.3d at p. 441; *People v. Kelly* (2006) 40 Cal.4th 106, 110.)

**DISPOSITION**

The judgment of the trial court is affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

JOHNSON, J.

BENDIX, 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.